



# 2020 Annual Public Hearing

## Meeting Minutes



*June 26, 2020*

**Indiana Department of Revenue**

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# Indiana Department of Revenue

## Indiana Department of Revenue 2020 Annual Public Hearing Minutes Summary

In accordance with the Indiana Taxpayer Bill of Rights, the Indiana Department of Revenue (DOR) held its Annual Public Hearing on June 26, 2020 at 10 a.m. at Central Office in Indianapolis and via WebEx.

Required by Indiana law, the purpose of this annual public hearing is to provide taxpayers an opportunity to recommend changes in statutes, departmental policies, processes, and procedures to help the department better administer tax laws.

Individuals in attendance representing the Indiana Department of Revenue were:

- Commissioner Bob Grennes
- Chief Communications Officer Emily Boesen
- Chief Information Officer Kevin Gulley

Attendees:

- Patrick Thomas, Notre Dame Law School
- Philip Jackson, Indiana CPA Society
- 81 online participants

10:00 a.m. Call to order by Emily Boesen

10:00 a.m. Opening remarks by Emily Boesen (See Attachment A)

10:01 a.m. Introduction of Commissioner Bob Grennes

10:02 a.m. Opening remarks by Commissioner (See Attachment B)

10:18 a.m. Remarks from Chief Information Officer Kevin Gulley (See Attachment C)

10:23 a.m. Call for Speakers/Introduction of Philip Jackson, CPA Society

10:23 a.m. Comments from Phillip Jackson (See Attachment D)

- Congratulated DOR on 2020 IndyStar.com Top Workplace recognition. Commended Commissioner Grennes for meeting challenges of his new appointment and COVID-19.
- Expressed appreciation for DOR's national leadership and expediency in extending due dates and payments.
- Expressed thank for service to Indiana's taxpayers
- Called for continued transparency and communication to tax practitioners.

10:30 a.m. Introduction of Patrick Thomas, Notre Dame Law School

10:30 a.m. Comments from Patrick Thomas (See Attachment E)

- Expressed thanks to Commissioner, Director Boesen and Mr. Jackson.
- Referred to submitted comments and gave overview of nine key areas focusing on low income Hoosiers.
- Submitted Freedom of Information Act request in attached comments
- Thanked DOR for COVID-19 response that was faster and above and beyond relief at the federal level.

10:51 a.m. Commissioner Grennes provided closing comments and thanks to everyone who participated in-person and online.

10:53 a.m. Emily Boesen expressed appreciation for comments; adjourned the annual public hearing.



# Indiana Department of Revenue

## **Attachment A: Opening Statement – Emily Boesen**

Good morning ladies and gentlemen. My name is Emily Boesen and I am the Chief Communications Officer for the Indiana Department of Revenue. I would like to personally thank you for attending or tuning into today's annual public hearing.

This hearing, as required under Indiana code, is for the purpose of providing taxpayers opportunity to make recommendations to the department that administer the tax laws in our state.

This hearing is not a news conference or media opportunity. Nor is it a forum to debate Indiana tax laws—those are established by the Indiana General Assembly.

This is an opportunity for the public to suggest improvements in tax services and processing. We are always looking to improve our services to the taxpayer and we are very interested in hearing your ideas and suggestions.

We asked for public comments to be submitted to us in advance in order to address those comments today—which is different than previous annual hearings. Due to social distancing, we are holding our annual hearing virtually this year and this effort was put in place to keep our team and viewers safe. All comments we received prior to today were all considered “one-client” issues that were more particular to a specific customer. We have addressed all those issues offline. We have two guest speakers present today who plan to make comment after our presentation.

For those of you who are with us in person, once the Commissioner and Chief Information Officer are done making comment, we will call you up to address our team. At this time, it is my pleasure to introduce the Commissioner of the Indiana Department Revenue, Bob Grennes.



# Indiana Department of Revenue

## **Attachment B: Opening Remarks – Commissioner Bob Grennes**

Good morning and happy Friday. On behalf of the over 700 members of the DOR family, welcome to the 2020 Indiana Department of Revenue Public Hearing.

My name is Bob Grennes, and after serving for 3 years in the role of Chief Operating Officer, as of February 1st of this year, I am honored to now serve as DOR's Commissioner.

While this public hearing is a formal opportunity to provide feedback, this is in no way your only opportunity to connect with our team. One of our core values is continuous improvement and feedback is a key ingredient to our improvement work.

There are many ways to connect with us and we welcome every opportunity to capture your feedback and work together. Our website contains contact information for all of our executives and for each of our business units – so you can easily get the assistance you need.

Our website also contains an easy to use customer feedback form that provides a fast and easy way to provide feedback, share an idea, report a concern, or request assistance.

We believe that feedback is the breakfast of champions, and we truly appreciate it every time we receive it.

We are in a bit of a different setting today, as we conduct a “mostly” virtual annual hearing. We have a few individuals present with us and many watching via our livestream.

We appreciate your interest and taking the time to join us.

Joining me today is Emily Boesen, Chief Communications Officer, Chris Russell, Special Counsel and Policy Director, Dwaine Brinson, Revenue Inspector General, Zia Mollabashy, General Counsel, and Kevin Gulley, Chief Information Officer.

After my opening remarks and updates, Kevin will be providing a quick update on Project NextDOR, the complete modernization of DOR's tax processing systems and service delivery operations.

I want to give a quick shout out to two of the individuals joining us in person today – Patrick Thomas from the Notre Dame Tax Clinic and Philip Jackson from the CPA Society.

Both Patrick and Philip are members of our Tax Advisory Council and have been wonderful partners assisting us on our improvement journey. Through many meetings, discussions, and working sessions with Patrick, Philip, and many of their colleagues, we have identified and implemented a number of important improvements to our systems, processes, and procedures.

While we all recognize that improvements never end and we will not always agree, we have come a long way together. These gentleman and their colleagues our experts in their fields and passionate advocates for Hoosiers. They have truly helped us improve tax administration and our services to all Hoosiers. We thank them for being such great partners and we look forward to continuing to work together.

Over the last three years, the DOR team has embarked on a journey to reengineer our mission, vision, core values, culture, relationship with all of our stakeholders, and service delivery.

While operating this high-volume, high-variability, and high-complexity agency, we also went to work to build the organizational capability to replace our 25-year old legacy tax processing systems – as well as modernize our service operations to introduce a new level of service to Hoosiers.

This work has been exciting, rewarding and exhausting. It also never ends. But we have come a very long way and we are proud of our progress.

While living our mission to serve Indiana by administering tax laws in a fair, secure and efficient manner, we have stayed keenly focused on our aspirational vision to be recognized as the premier tax administrator in the nation and great place to work – and we are very proud of the results.

Many of our programs, including ID protection and fraud prevention, Motor Carrier Services, Data Privacy and Security, and Communications, just to name a few, are being recognized as industry leaders.

Just last month, the Federation of Tax Administrators (our national industry association) honored DOR with two awards recognizing our commitment to data security training and employee communication. This followed last year's FTA recognition for DOR's employee engagement and awards for our customer feedback and community volunteer programs.

And just last Sunday, the IndyStar announced that DOR had been awarded the prestigious Top Workplaces award for the second straight year. This award is based on our team's anonymous feedback on organizational commitment, communication, motivation and leadership. Being the first Indiana state agency to win this award in 2019 was amazing. Winning it again in 2020 is pretty special.

Our team cares deeply about the important work we do and the Hoosiers we serve. But we also care about each other and our work environment. DOR is a pretty special place and we are so proud to be recognized by our peers and industry experts.

DOR is a large and complex organization that has many interwoven moving parts. I would like to invite you to visit our website, [in.gov/dor](http://in.gov/dor), where you can learn about all the wonderful work being completed by the DOR team.

We invest heavily in keeping our website full of current and valuable information. This site, along with our tax bulletin, weekly blog, agency announcements, and social media, is an excellent way to stay up to date and connected with DOR.

By statute, we are required to submit an annual report to the governor by October 1st of each year. We are currently drafting our FY20 report which will provide a variety of FY20 statistics and highlight the key department initiatives.

Here are a few highlights from the past fiscal year:

Fiscal year 20 closes in just four days. We are rolling through individual tax season and closing in on processing a total of \$19 billion for the 65 tax types we administer.

We are fully supporting the Governor's Office, Office of Management & Budget, the State Budget Agency, and all the agencies tackling the COVID pandemic and associated challenges. While #INthistgether may just be a slogan, it has truly been, and will continue to be, our guiding principle during this crisis.

Our most significant accomplishment this past year was the successful implementation of the first rollout of Project NextDOR and the new Indiana Tax System in September of 2019. This rollout included all functionality associated with corporate taxes and included the launch of the new state-of-the-art customer portal called INTIME – the Indiana Tax Information Management Engine. Kevin will provide additional information on this major project in a few moments.

Our Policy team successfully supported Governor Holcomb's Administration and the Indiana General Assembly before, during, and after the 2020 legislative session to address important tax law topics. You can read about that work in our 2020 Legislative Synopsis, which is published on our website.

We successfully designed and executed a very complex conversion to a new outside collection agency – United Collection Bureau in Jefferson, Indiana. This transition has gone extremely well and will be fully operationally starting in July.

We continued our commitment to positive collaboration through business outreach and education and working with key partners and Hoosier taxpayers across the state.

And we continued to nurture our customer-centric and employee-focused culture through engaged leadership, training, numerous improvement projects, enhanced metrics and customer service recognition programs.

We are getting ready to wrap up the 2020 individual tax season – a tax season that has been like no other. Due to the COVID pandemic, Indiana extended the individual tax filing and payment date from April 15th to July 15th. Our team quickly implemented



procedures to continue running all department operations, including processing returns, posting payments, issuing refunds, and providing customer service.

As of this week, we have processed over 2.9 million individual tax returns and issued over 1.9 million refunds. Reflecting the extended filing date, this volume represents 90% of the returns and 93% refunds we had at this same time last year.

89% of returns have been filed electronically, and if an electronic return resulted in a refund, 93% of those refunds have been issued within 14 days. Our industry leading service goal is 90% within 14 days.

Over 103,000 of those electronic returns have been filed for free using Indiana FreeFile, a 16% increase over 2019. This is great news for Hoosiers who qualify for this free filing program, a program we have worked very hard, alongside the IRS, to promote.

11% of returns have been filed via paper. 81% of refunds from paper returns have been issued within 30 days, 98% within 60 days. Our service goal is 90% within 60 days.

Our Customer Service team has knocked it out of the park during this tax season – answering over 323,000 calls at record setting performance. Over the last two months, our answer rate has exceeded 95% - with average hold times regularly under 2 minutes. Hold times for specialty lines like ID protection and tax practitioner services are well under that. Our call quality and customer satisfaction survey results are setting records, some at 100%, and consistently above 85%.

At the same time, our ID protection and Fraud team have continued to stay ahead of bad actors that are trying to steal Hoosier IDs and tax refunds. So far this year, our fraud analytics program has analyzed all 2.9 million returns and almost 4 million IDs. This year we have stopped \$9.5 million of refund fraud and confirmed over 900 Hoosier IDs that have been stolen. We take protecting Hoosier IDs and refunds very seriously, and our industry leading program continues to perform superbly.

I want to close with a few comments about how DOR has responded to the COVID crisis.

Like every organization, we have spent the last 4 months learning, assessing, and taking action using the best information available to us. While closely following the guidance of Governor Holcomb and the Indiana State Department of Health, we have focused on three things.

First, was the safety of our team members and customers. We quickly took action to close in-person services, transition as many jobs as possible to work from home settings, and implement safety procedures for all job functions that were required to be completed onsite.

Second, was doubling down on our commitment to serve Indiana and the Hoosiers that count on us. As the agency that is responsible for processing all of the State's tax revenue and serving millions of Hoosiers and hundreds of thousands of businesses and corporations that needed us now more than ever, we needed to figure out how to keep the agency firing on all cylinders.

Third, was finding ways to help Hoosiers through this unprecedented time – which we did through ensuring we continued to process returns and issue refunds, provide empathetic and high-quality customer service, swiftly implementing filing and payment extensions and developing a wide-variety of relief efforts outlined in our Helping Hoosiers program – which is published on our website.

As I have shared with you today, our team’s performance throughout this pandemic has been outstanding. Teamwork, communication, a can-do spirit and collaboration – internally and with all our partners – has been the keys to our success.

Every organization will be changed by this pandemic. We are confident that we are going to emerge stronger and ready to continue providing great government service to Hoosiers and writing our success story.

Thank you again for being here.

I will now turn it over to Kevin Gulley, DOR’s CIO, to provide an update on Project NextDOR.



# Indiana Department of Revenue

## **Attachment C: Remarks – Chief Information Officer Kevin Gulley**

Thank you, Commissioner. I am Kevin Gulley, the Chief Information Officer for the Department of Revenue. Thank you for attending today's annual hearing and for allowing me the opportunity to provide you with some background and an update regarding the department's transformational project – Project NextDOR.

First, a little background on the project. In 2017, the Indiana Department of Revenue embarked on a journey to transform the agency. It started with a disciplined Request for Proposal and assessment process, which in turn led to the selection of our transition partner, FAST Enterprises. FAST Enterprises is the leader in the revenue administration system industry and has successfully implemented in over 26 states to date.

### The Benefits of Project NextDOR:

The project will eventually take how all our Hoosier taxpayers file, pay and view their information to the next level. The current tax administration system has been in place for over 25 years and presents many operational challenges and limitations for both the department and our customers. The key features of the new system upon completion will include:

- Enhanced online customer facing portal to allow Hoosiers to view their information;
- Electronic Filing of tax returns and payments;
- The ability to file amended returns electronically and request tax transcripts; and
- A host of other operational benefits.

### The Project Approach:

The implementation portion of the project started in August of 2018 and was planned out over the next 47 months. It consists of four rollouts. Each rollout is approx. 12 months in duration. The first rollout launched in September of 2019 and consisted of 8 tax types including the Corporate, Partnership, and S-corporation tax types. The second rollout is scheduled for this September and consists of 13 tax types including the Trust suite of taxes (Retail Sales, Withholding, Food and Beverage, County Innkeepers, etc.). The third rollout consists of 13 tax types including the Individual, Gaming excise, and a host of wagering taxes. And the fourth rollout consists of 18 tax types including the Special Taxes (Cigarette, Other Tobacco Products, Alcohol, Motor Fuel, etc.).

## The Team:

The current project NextDOR team consists of dedicated Department of Revenue and FAST Enterprise team members. The FAST team members have relocated to the Hoosier state and the team was co-located within our agency in order to develop the necessary relationships that are vital to successfully deliver a project of this magnitude. These relationships have enabled the team to continue to be successful during the recent remote work challenges that we all have faced.

## The Current Status:

Since our last Public Hearing we have achieved several milestones.

1. The first rollout (Corporate Taxes) was implemented on time and on budget in September (Labor Day) of 2019. Rollout 1 featured the department's new, self-service, online portal – the Indiana Taxpayer Information Management Engine (or INTIME).
2. Rollout Two (Trust Taxes) is targeted to go live September of 2020. We are currently focused on the testing, training, and conversion activities. This rollout is on plan.
3. Rollout Three (Individual and Wagering taxes) is targeted to go live September of 2021.
4. Rollout Four (Special Taxes) is targeted to go live August of 2022.

## In Closing:

Project NextDOR represents a major technological upgrade to our core administrative systems, and it enables an effective platform for us to deliver great government service. This once-in-a-generation opportunity will completely transform the agency and properly position the department for the years and changes to come.



# Indiana Department of Revenue

## **Attachment G: Remarks – Comments to be Entered into the Record**

One question regarding the transition from INTax to INTIME was asked on WebEx. More information will be available over the summer. Please see our website, [dor.in.gov](http://dor.in.gov) or [ProjectNextDOR.dor.in.gov](http://ProjectNextDOR.dor.in.gov) for more information and a practitioner guide.

1.

From: Davis Financial [REDACTED]

I have many ideas/issues, but my main issue is this. I love the fact that there is a site we can check on estimated taxes paid. But why couldn't IDOR add the dates paid so we as practitioners know which quarters were paid? As you can guess, our clients do not always give us factual information and sometimes no information at all. So we do rely on this site quite often, but when we are working on 2019 returns later in the year, i.e. extensions, the payments posted are current year, 2020 for example. So if the dates, or a drop down box indicating the year, would be very helpful.

W. Eugene Davis, EA

### *DOR Response*

The ability to check on estimated taxes paid along with the dates the taxes (which quarters were paid) is available in DOR's new e-services portal, INTIME.

It is currently available for taxes types from Rollout 1 (Aircraft Dealer, Aircraft Excise, C Corporation, Non-Profit, Partnership, S Corporation, and Utility Receipts) and will be available starting Sept. 8, 2020, for Rollout 2 tax types (Sales and Withholding, Consumer Use, County Admissions, County Innkeeper, Food and Beverage, Heavy Equipment Rental, Indianapolis Motor Speedway, Motor Vehicle Rental Excise, Out-of-State Use, Tire Fee, Utility Services Use Tax, and Wireless Prepaid Cards). For individuals and other Rollout 3 AND 4 tax types, the wait is a little longer.

Customers can see details about their payments in INTIME by navigating to the filing period they are interested in.

Log in to INTIME > Select "See all returns" link in applicable account panel > Select applicable filing period.

From the period detail screen, they see a list of payments applied to that period, along with the date each payment was received.

Moving to INTIME as soon as it goes LIVE will allow practitioners to immediately benefit from the many new system features including the flexibility to control access to accounts. To take advantage of these new features, practitioners will need to appoint one designated individual to control access to INTIME for their organization. The appointee will need to create the username and password for access to INTIME, and review the INTax to INTIME Migration Quick Start Guide to be prepared to register beginning Sept. 8.

More information on INTIME, Project NextDOR's modernization of Indiana's tax system and what tax practitioners need to do to access client accounts, please visit [ProjectNextDOR.dor.in.gov](http://ProjectNextDOR.dor.in.gov).

2.

From: James Lathrop [REDACTED]

Hello,

You asked for my comments on what is going on in the IDOR and I have but one comment.

I am a CPA and a part time practitioner and I have one gripe but it is a significant one.

My gripe is as follows. I or my clients have received, over the years, a notice that the IDOR and tax filer have differences in the amounts included on the Form 1040. In all cases, there is little or no explanation of the differences and the message is always the same: the tax payer owes more money.

In the past, I have called IDOR and have spoken to a representative. I would always ask the representative why IDOR has different amounts filed that the tax payer. The answer, after several minutes of research, typically replies - I don't know. I then ask to speak to a supervisor and usually after a few minutes I receive a reply from the representative that the supervisor is not available. I then realize that my question will not be answered in any due time. I then compose a letter to the IDOR (which I should have done initially) asking for an explanation of the differences between IDOR and the tax payer's filed return. I then wait for a response...and I wait and I wait. Finally, after waiting for an undue amount of time, I call and/or write the advocate for the IDOR and then the advocate, after our conversation, will research the difference and contact me to provide an explanation.

The elapsed time can be several weeks for this process to finally conclude.

My question is this, why doesn't the IDOR provide a detailed explanation of why there are differences between IDOR and the tax filer's filed return, It would save an immense amount of time.

I would be glad to speak to anyone about this matter. I can be reached at 317-894-4714. My name is Jim Lathrop. By the way, I am currently involved with the above exact situation. I have written a letter requesting an explanation but have not received a reply. Sometime after July 4th, I will contact the advocate and we will find out why the differences occurred and then take steps to remedy the issue.

Thanks for listening.

Jim Lathrop

*DOR Response*

The email was forwarded to the Taxpayer Advocate and, subsequently, to DOR's Customer Service Executive Director.

The notice referenced by Mr. Lathrop identifies adjustments made to a tax return, but does not explain why DOR made them. Project NextDOR, our modernization initiative, will improve our notices and other correspondence to customers. Additionally, our customer service will continue to improve as DOR personnel will be able to use a more robust and up-to-date system when interacting with our customers. The new Indiana Taxpayer Information Management Engine (INTIME) continues to incorporate different tax types throughout the remaining DOR Project NextDOR rollouts and allows representatives with authorization and/or a POA on file to access customer information and interact with DOR more efficiently.

3.

From: James Crouse [REDACTED]

Please submit for consideration in the Department of Revenue's annual public hearing this concern:

Schedule IN-OCC and its instructions need to be changed in order to show and make absolutely clear that one may obtain credit only in one-half of the amount of one's donation to a Scholarship Granting Organization. Such half-credit for contributions to an Indiana college or university is made fully clear on Schedule CC-40 and its instructions. It should be made likewise clear by revising Schedule IN-OCC and its instructions.

Thank you.  
James R. Crouse  
Taxpayer ID: [REDACTED]  
Fort Wayne

*DOR Response*

Schedule IN-OCC is designed to allow for the more detailed reporting of multiple complex credits (up to 12), including the School Scholarship Credit. Information reported on the schedule includes certification project numbers and certification years, information about an S corporation or partnership pass-through entity, etc. More detailed instructions for those credits may be found in the IT-40 Instruction Booklet.

Similar detailed instructions may be found in the instruction booklet for the other credits reported on Schedule IN-OCC.

In reviewing the form, we found that we do not state specifically that detailed instructions may be found in the instruction booklet. We will remedy that in the instructions for the Schedule IN-OCC for tax year 2020.

Thank you for your helpful suggestion.



## Attachment D: Philip Jackson, Indiana CPA Society, Statement



Tax Resource Advisory Council  
Indiana CPA Society  
Comments: IN DOR Annual Public Hearing  
Comments

June 26, 2020

Commissioner Grennes and DOR team, thank you for the opportunity to provide comment today.

I am Philip Jackson, chair of the Indiana CPA Society's Tax Resource Advisory Council and a CPA tax manager at L.M. Henderson Company in Indianapolis. As you know, I also have the privilege of serving on the Commissioner's Tax Advisory Council.

Last year at this meeting, I was congratulating Commissioner Krupp; and you as his COO, on being the first state agency to be named one of *Indy Star's Top Workplaces for 2019*. As I prepared today's comments, I received the announcement that DOR was again recognized as a top workplace for 2020. So, once again, congratulations to you, now Commissioner Grennes and the over 700 DOR staff team for continuing this legacy.

In February of this year, we were pleased to learn that you had been tapped by Governor Holcomb to lead the department as the new Commissioner. We entered a challenging tax season knowing we would work closely with you to troubleshoot and resolve any related issues that arose. Little did any of us know that within a month of your appointment, our worlds would be completely uprooted in the face of a global pandemic.

Our long-standing relationship built on mutual trust and respect proved invaluable as the state and federal governments began to shut down and businesses and Hoosiers followed stay at home orders for what we all hoped would be a short time.

As essential service providers, our member CPAs quickly pivoted to help all types of businesses, industries, CPA tax practices, audit and consulting firms, institutions of education and governments close their doors while keeping an eye on preserving a viable future. You too were suddenly challenged to transition over 700 employees to work remotely just as tax season was getting underway.

We appreciate your outreach and dedicated continued response to the Society on issues affecting both the state's fiscal stability and all Indiana taxpayers. Amidst the uncertainty of Congress drafting and approving the CARES Act and Families First Coronavirus Response Act and the federal government implementing provisions and programs, we found DOR to be in lockstep with our requests for conformity at the state level. In fact, Indiana was a leader by extending due dates for payments with filing due dates for individuals and corporations.

The Indiana CPA Society is a statewide professional association representing nearly 7,000 CPAs and accounting professionals who are transforming business in Indiana.

Taxpayers benefitted but may not be aware of the work and planning across multiple state agencies and the Governor's office that went into extending these due dates and the Q2 estimated tax payments as well as other considerations such as determining treatment of PPP loan forgiveness as income.

As we emerge from this health crisis we know and must acknowledge there will be some confusion and issues to address as a result of these changes. Continued transparency about any systemic problems and a high level of over-communication to practitioners, the business community and taxpayers will serve to expedite accurate filings and resolutions.

We are committed to working through issues with you and discussing the need for troubleshooting and resolution of specific issues. We anticipate a need for taxpayers and practitioners to have dedicated customer service representatives with specialized knowledge and authority level to quickly resolve complex tax situations.

As the economy recovers, the state will need to plan for the inevitable income shortfalls and timing challenges of 2020. We encourage you to draw on the expertise and support of our members as trusted business advisors. We anticipate the need for our members to work with elected leaders of the General Assembly, other business organizations and state agencies to help overcome obstacles to Indiana emerging financially sound, economically stable and with a strong positive environment for business. We join you in continued support of sound tax policy that aids economic recovery and ensures ongoing success for Indiana taxpayers.

And finally, modernizing the state's tax system has been long overdue and a long-time coming, but we are nonetheless happy to mark incremental progress each year. Given the challenges of 2020, I'm sure it was no small task to maintain the timeline and continue work on Project NextDOR readying for the September 8<sup>th</sup> rollout of phase 2. We trust the task of migrating business customers with sales and withholding obligations from INTax to the new e-services portal, INTIME and getting new businesses on the INTIME portal will go smoothly. Thanks to DOR's vision and well thought out four phase plan and the General Assembly's funding approval to overhaul the system, all Indiana taxpayers benefit from this investment in a modernized tax system.

On behalf of our nearly 7,000 member CPAs and accounting professionals who are transforming business in Indiana, I extend my sincere thanks to you and your team at DOR for your considerable efforts and service to Indiana's taxpayers.

Respectfully submitted:

Philip Jackson, CPA  
Chair, Indiana CPA Society Tax Resource Advisory Council

**2020 Report on the State of Indiana Tax  
Administration for Low-Income Hoosiers**

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## **EXECUTIVE SUMMARY**

We provide the fourth 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 since 2017 and recommends further improvements for 2020.

Last year, we highlighted the necessity of crafting tax compliance solutions with low-income taxpayers in mind. We again recommend that the Department, consistent with the data provided last year, continue to recognize the necessity of tailoring their customer service to the needs of low-income and ESL taxpayers. In the face of the economic downturn from the COVID-19 pandemic, the Department must, now more than ever, consider these principles in designing sound tax administration in Indiana.

### **Developments in 2019 and 2020**

In each report, we have highlighted our previous recommendations along with the Department's progress in addressing the serious issues we identify. The Department has taken many steps over the past three years that are consistent with our recommendations and overall support sound tax administration. These changes included:

- Elimination of the 20% down payment requirement in payment plans;
- Clarification of language in Departmental notices, including the AR-80, AR-40, and the “math error” assessment notice;
- The ability for taxpayers to request state tax withholding information directly from the Department; and
- Overall increased collaboration and communication between practitioners and the Department.

The Department continues to deserve recognition for its drive towards a customer service focus over the past three years. Specifically, the Department's increased flexibility in payment plan structures, better communication with practitioners, and increased options for case resolution at the Taxpayer Advocate Office have provided meaningful changes for Hoosier taxpayers. The practitioner hotlines for the Department and its third-party debt collector have also increased their effectiveness for practitioners attempting to bring their clients into tax compliance.

The Department has likewise worked to integrate practitioner concerns on the front-end in onboarding its new third-party debt collector, United Collections Bureau. In February 2020, the authors of this report attended an all-day working session with UCB at their offices in Jeffersonville. We identified points of contact and were able to articulate any concerns we saw in UCB's operations vis-a-vis low-income taxpayers well ahead of any enforced collection activity.

This is but one example of the increased collaboration that now exists between practitioners and the Department. Indeed, this same spirit of collaboration 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 last year that the Taxpayer Advocate Office has become an effective tool through which to resolve complicated tax compliance issues.

Additionally, leading up to and during the 2019 legislative session, the Department worked constructively with practitioners and the General Assembly to enact changes to Indiana's tax

confidentiality statute, Indiana Code § 6-8.1-7-1. Under prior law, the Department could not reveal tax withholding information to nonfilers, because that information came from the confidential tax return of the taxpayer's employer. For many nonfilers, this represented a significant hardship; even if they wanted to come into filing compliance, they often did not have copies of prior year Form W-2s. Often, their former employers also did not retain these copies, or taxpayers were otherwise unable to obtain these necessary tax forms.

Under new Indiana Code § 6-8.1-7-1(t), effective July 1, 2019, the Department now provides state tax withholding information to individual taxpayers upon written request. Providing state tax withholding information incentivizes non-filers to file past-due state tax returns. If a taxpayer no longer has a W-2 and the Department issued a "best information available" return, the taxpayer can now request state tax withholding information, claim and receive withholding credits, and reduce or eliminate her state tax debt. Previously, the taxpayer would ignore the past-due return because she could not claim or receive credit for her state tax withholding and therefore could not reduce her state tax liability.

Over the past year, the Low Income Taxpayer Clinics utilized this new legislation, filing hundreds of past-due state tax returns and bringing dozens of taxpayers into collection and filing compliance. For example, one taxpayer last filed state tax returns in 2008. The Department assessed approximately \$5,500 in state taxes against the taxpayer based on best information available returns. However, every year the taxpayer's employer withheld state and county taxes. After his 2009 through 2018 state tax returns were filed and processed, he received credit for state tax withholdings, which reduced his previous tax assessments to \$0; the Department also issued an additional refund of \$170 to the taxpayer.

During the spring of 2020, the Department—like the rest of the state and indeed the world—faced the challenge of addressing the COVID-19 pandemic. Nearly overnight, local, national, and global economies ground to a halt. Hoosier taxpayers fell ill; cared for loved ones; lost their jobs; saw their investments decimated; and suffered from the anxiety and fear that all of this brought on. Tax payments and filings, normally at the forefront of our collective thoughts in mid-March and early April, faded in importance. For many taxpayers who had lost income, paying tax on last year's income would prove to be difficult.

So, the Department, like the Internal Revenue Service, took many actions designed to support Hoosier taxpayers during this challenging time.<sup>1</sup> It suspended interest and penalties on all individual income tax payments for tax year 2019 until July 15, 2020. It also continued the critical role of processing returns and issuing refunds.

Importantly, the Department also suspended nearly all enforced collection activity against taxpayers, including the creation of new bills, tax warrants, liens, sheriff's cases, third-party agency cases, and levy and garnishment actions. The Department also deferred payment plan due dates to July 2020, allowed for flexible modification of existing payment plan and offer in compromise agreements, and extended the normal payment plan time frame to 60 months. Critically, the Department also ceased all active levy and garnishment collection actions; this step went above and beyond those that the IRS took. These initiatives helped taxpayers prioritize and deal with this public health and economic crisis.

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<sup>1</sup> See generally DOR Announces "Helping Hoosiers" COVID-19 Relief Services (Mar. 31, 2020), <https://calendar.in.gov/site/dor/event/dor-announces-helping-hoosiers-covid-19-relief-services>.

The Department deserves commendation for its decisive and thoughtful action to protect taxpayers during this quickly developing and challenging time for all Hoosiers.

### **Recommendations for 2020**

As in years past, many challenges remain for low-income and ESL taxpayers in Indiana. These challenges involve themes of complexity for taxpayers, effective communications between the Department and taxpayers, and efficient internal processes for the Department. They strongly affect low-income and ESL taxpayers, but likewise impact all Hoosier taxpayers. In summary, we recommend that the Department:

- Reduce taxpayer complexity in filing individual income tax returns;
- Communicate more effectively in Departmental notices, including copying authorized representatives on all taxpayer correspondence;
- Ensure that Project NextDOR will effectively produce an individual taxpayer's payment history while in collections;
- Streamline and better publicize its procedures for "Innocent Spouse", "Injured Spouse", and for removing vehicle liens; and
- Prescribe uniform guidelines for Sheriff's notices.

This year, we also devote special attention to the Department's Offer in Compromise and Financial Hardship processes in the Taxpayer Advocate Office. This report identifies two serious problems that represent failures to achieve best practices in tax administration: (1) the Department fails to publish its guidelines for processing Offers in Compromise; and (2) the Department uses informal, unpublished criteria that often arbitrarily deny an Offer in Compromise to the poorest Hoosier taxpayers. The Department should both transparently publish and reform its offer criteria to focus on taxpayers' future ability to pay their tax debts, relying on the taxpayer's promise of future tax compliance and the revenue this brings the Department.

## Most Serious Issues in Indiana Tax Administration

### Issue #1: Return Filing Complexity

During the 2019 filing season, 3,412,979 individual taxpayers submitted an income tax return to the Department.<sup>2</sup> For those returns that generated a refund, 88% of Hoosiers submitted their tax returns electronically, representing a slight increase from 86.38% during 2017.<sup>3</sup> The Internal Revenue Service and the Department have no mechanism for individuals to directly submit tax returns electronically, so Hoosiers must find a private return filing provider to e-file.

Many Hoosiers' tax compliance situations are simple: add up wage or salary income on a W-2, calculate tax due, and compare with tax withheld. But in our experience, many taxpayers misunderstand and are intimidated by the perceived (and sometimes real) complexity of the tax compliance system. And given the lack of any public return filing system, the vast majority of Hoosiers outsource the return filing process to private companies, including return preparation services and do-it-yourself online tax providers.

The cost of these services varies widely. But both the Internal Revenue Service and the Department have concluded that lower income taxpayers shouldn't have to pay a dime for tax return preparation. Thus, free services exist like the Volunteer Income Tax Assistance (VITA) grant program<sup>4</sup> and the Free File Program.<sup>5</sup> In VITA programs, IRS-certified volunteers prepare and file federal and state tax returns for qualifying taxpayers. Free File provides do-it-yourself software for federal and state tax returns to taxpayers for free. These programs have increased their income thresholds for the 2020 filing season—VITA programs serve taxpayers earning at or below \$56,000 annually, while taxpayers earning below \$69,000 annually qualify for Free File. For taxpayers earning more than \$69,000, the IRS also makes available a “Free Fillable Forms” utility that performs simple math calculations.<sup>6</sup> No similar state alternative to Free Fillable Forms exists for Indiana.

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<sup>2</sup> See INDIANA DEPT. OF REVENUE, FY2019 ANNUAL REPORT 27 (2019), <https://www.in.gov/dor/files/2019-annual-report.pdf>.

<sup>3</sup> See *id.*

<sup>4</sup> See Internal Revenue Service, *Free Tax Return Preparation for Qualifying Taxpayers* (last updated May 19, 2020), <https://www.irs.gov/individuals/free-tax-return-preparation-for-you-by-volunteers>.

<sup>5</sup> See Internal Revenue Service, *Free File: Do Your Federal Taxes for Free* (last updated June 2, 2020), <https://www.irs.gov/filing/free-file-do-your-federal-taxes-for-free>; Indiana Dept. of Revenue, *INfreefile* (last visited June 5, 2020), <https://www.in.gov/dor/4578.htm>.

<sup>6</sup> See Internal Revenue Service, *Free File Fillable Forms* (last visited June 5, 2020), <https://www.freefilefillableforms.com/#/fd>.



Free File has existed since 2002 and operates through a Memorandum of Understanding<sup>7</sup> between the IRS and “Free File, Incorporated.”<sup>8</sup> Free File, Incorporated, also known as the “Free File Alliance”, is self-described as “a nonprofit coalition of industry-leading tax software companies partnered with the IRS to provide free electronic tax services.”<sup>9</sup> For the 2019 filing season, these companies include Intuit TurboTax, H&R Block,<sup>10</sup> TaxAct, Tax Slayer, 1040Now, OnLine Taxes, ezTaxReturn.com, FileYourTaxes.com, Free 1040 Tax Return, and Free Tax USA.

While the IRS, the Department, and Free File all market Free File as being accessible to 70% of taxpayers, the reality is otherwise under the Free File MOU. Each individual Free File member agrees to “make its [s]ervices available to not less than 10 percent and not more than 50 percent of the individual taxpayer population, or approximately [70 million] taxpayers, within the Coverage . . . .”<sup>11</sup> Under the MOU, the Coverage is defined as “the lowest 70 percent of taxpayer population calculated using AGI.”<sup>12</sup> In reality, this means that each Free File company has discretion under the MOU to provide free services for only 10% of the lower 70% of all U.S. taxpayers by income. And under the MOU, companies **cannot** provide coverage for more than 50% of eligible taxpayers.

So, Free File companies need not actually provide free filing software to the lower 70% of all U.S. taxpayers by income. There are a panoply of qualification options among the Free File companies. Income cutoffs range from \$69,000 to \$36,000 in adjusted gross income. Other companies have age, geographic, and other restrictions. Others provide free filing to active duty military or those who qualify for the EIC—regardless of income.<sup>13</sup>

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<sup>7</sup> EIGHTH MEMORANDUM OF UNDERSTANDING ON SERVICE STANDARDS AND DISPUTES BETWEEN THE INTERNAL REVENUE SERVICE AND FREE FILE, INCORPORATED [hereinafter “Free File MOU”] (Oct. 31, 2018), available at <https://www.irs.gov/pub/irs-utl/Eight%20Free%20File%20MOU.pdf>. This MOU was recently renewed through 2021, and an Addendum was signed in December 2019. See ADDENDUM TO THE EIGHTH MEMORANDUM OF UNDERSTANDING ON SERVICE STANDARDS AND DISPUTES BETWEEN THE INTERNAL REVENUE SERVICE AND FREE FILE, INCORPORATED [hereinafter “Free File MOU 2019 Addendum”] (Dec. 26, 2019), available at <https://www.irs.gov/pub/irs-utl/FFI%20Signed%20MOU%20Addendum%2012-26-19.pdf>.

<sup>8</sup> See Free File Alliance, *Free File Alliance Flyer* (last visited June 5, 2020), <https://freefilealliance.org/wp-content/uploads/sites/15/2019/01/Free-File-Alliance-Flyer.pdf>. Previously, Free File Incorporated was the “Free File Alliance LLC”, until it received 501(c)(3) status from the IRS in 2012. See *id.* In 2019, Free File Incorporated was re-organized as a 501(c)(4) social welfare organization.

<sup>9</sup> Free File Alliance, *About* (last visited June 5, 2020), <https://freefilealliance.org/about/>.

<sup>10</sup> H&R Block has recently announced its decision to exit the Free File Alliance at the end of the 2019 tax filing season. Free File Members TaxAct and Intuit have confirmed their commitment to Free File, but other Members have yet to comment on whether they will stay or leave. See *IRS’s Free File Partners Moving Forward Without H&R Block*, BLOOMBERG TAX, DAILY TAX REPORT (June 18, 2020), <https://news.bloombergtax.com/daily-tax-report/irss-free-file-partners-moving-forward-without-h-r-block>.

<sup>11</sup> Free File MOU, Article 4, ¶ 4.1.3(i).

<sup>12</sup> Free File MOU, Article 1, ¶ 1.5.

<sup>13</sup> See generally Internal Revenue Service, *Free File Software Offers* (last visited June 5, 2020), <https://apps.irs.gov/app/freeFile/>.

Qualifications for a free state return add another layer of complexity. While as a contracting party the IRS retains bargaining power to change the terms of the MOU, state departments of revenue must generally adopt the terms of the MOU on a “take-it-or-leave it” basis. Under the MOU, Free File must “offer free state tax preparation and e-filing in all states that participate in a State Free File Program.”<sup>14</sup> A “State Free File Program” includes “programs in states that offer free preparation and e-filing of individual tax returns based on criteria that are materially consistent with the federal Free File program, and which do not provide taxpayer funded online software for tax preparation and e-filing.”<sup>15</sup> According to the Department, there is no separate Memorandum of Understanding between it and Free File. Rather, it chooses to abide by the terms of the IRS-Free File MOU.

As of April 30, 2020, more than 94,300 Indiana returns have been filed through Free File for the 2020 filing season—a 7% increase from the 87,137 returns filed in 2019.<sup>16</sup> The Department deserves commendation for its marketing efforts for Free File. In part due to these efforts, many Hoosiers were able to have their tax returns prepared through for free.

As of this writing, aggregate filing data for the 2020 filing season are not available. But extrapolating the 2019 aggregate filing season figure (3.4 million returns filed) to 2020 reveals an uptake rate of 2.7%. While this uptake rate is greater than the federal uptake rate of 2.5% in FY 2017, it remains far less than the 70% of taxpayers that are supposed to be eligible.<sup>17</sup>

The National Taxpayer Advocate’s 2019 Annual Report to Congress provides some reasons for the considerably low uptake rate, namely the IRS’s failure to evaluate the quality of the program software to ensure program standards are being met. She also highlights failures in individual companies’ products, along with confusing cross marketing practices of fee-based products.<sup>18</sup>

Investigative reporting from ProPublica sheds some further light on this question. Certain Free File companies engaged in deceptive marketing and internal practices to steer qualifying taxpayers away from Free File—and towards their paid tax return preparation services. In response to ProPublica’s findings, the IRS engaged MITRE to independently assess Free File and make objective recommendations for program improvements. MITRE’s 2019 Free File analysis is arguably flawed—it assumes that most taxpayers prefer to use paid return preparation methods, even when they are eligible for Free File. It therefore wrongly presumes that the pool of eligible Free File users is only 30 million, compared to the 105 million taxpayers that meet the income thresholds for Free File.<sup>19</sup> This leads it to provide uptake rates that are vastly higher than actual figures.

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<sup>14</sup> Free File MOU, Article 4, ¶ 4.21.

<sup>15</sup> Free File MOU, Article 1, ¶ 1.20.

<sup>16</sup> See Press Release, Indiana Department of Revenue, Over 94,000 Hoosiers Have Taken Advantage of Free Tax Filing in 2020, (Apr. 30, 2020), *available at* <https://calendar.in.gov/site/dor/event/over-94000-hoosiers-have-taken-advantage-of-free-tax-filing-in-2020/>.

<sup>17</sup> See Taxpayer Advocate Service, *Free File: Substantial Free File Program Changes Are Necessary to Meet the Needs of Eligible Taxpayers* at 45, IN 2019 ANNUAL REPORT TO CONGRESS

<sup>18</sup> See *id.*

<sup>19</sup> See *id.* at 49.

Still, even MITRE’s contested review found that while Members were not directly violating any provisions in the MOU, their deceptive marketing was “against the spirit of the Free File Program,” which is to provide free filing options for underserved taxpayers.<sup>20</sup> Members are capitalizing on taxpayers’ lack of sophistication and creating additional confusion by directing them away from truly free services.

For example, these companies:

- Linked all “sponsored ads” in Google searches to their paid product<sup>21</sup> (i.e., those that typically appear at the top of any Google search result for “file taxes for free” or similar searches);
- Coded their Free File websites to actively prevent them from appearing in organic search results;<sup>22</sup>
- Marketed its paid products to vulnerable users who used private industry stimulus registration sites;<sup>23</sup> and
- Provided internal guidance to its employees to steer qualifying taxpayers away from Free File.<sup>24</sup>

The December 2019 Addendum to the MOU aims to address some of these concerns.

First, while the original MOU prohibited the IRS from developing its own public filing software, the Addendum drops this agreement not to compete with Free File.<sup>25</sup> By creating the possibility of a future competitive IRS free tax filing option, this modification puts more pressure on Members to adhere to both the terms of the agreement and the spirit of the Free File program.

Second, the Addendum includes new obligations that companies must take to increase accountability. Each Member must randomly select and survey taxpayers who filed through their Free File program to ensure customer satisfaction.<sup>26</sup> Surveying is to be done throughout the filing season, and the results must then be provided both quarterly and annually to the IRS. Members were originally only required to conduct reviews of their own Free File Landing pages for compliance with the MOU. The Addendum now requires Members to hire independent auditors to conduct these reviews, and then provide a copy of the results to the IRS prior to the websites’ “go live” dates to ensure their compliance

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<sup>20</sup> Memorandum from the Staff of the Permanent Subcommittee on Investigations, *IRS Oversight of the Free File Program* (June 9, 2020)

<sup>21</sup> Justin Elliott, *Here’s How TurboTax Just Tricked You Into Paying to File Your Taxes*, PROPUBLICA (Apr. 22, 2019), <https://www.propublica.org/article/turbotax-just-tricked-you-into-paying-to-file-your-taxes>.

<sup>22</sup> See Memorandum from the Staff of the Permanent Subcommittee on Investigation, *supra* note 20.

<sup>23</sup> See Justin Elliott & Paul Kiel, *Millions of Americans Might Not Get Stimulus Checks. Some Might Be Tricked Into Paying TurboTax to Get Theirs*, PROPUBLICA (Apr. 15 2020), <https://www.propublica.org/article/millions-of-americans-might-not-get-stimulus-checks-some-might-be-tricked-into-paying-turbotax-to-get-theirs>.

<sup>24</sup> See Justin Elliott & Paul Kiel, *TurboTax and H&R Block Saw Free Tax Filing as a Threat – and Guttled It*, PROPUBLICA (MAY 2, 2019), <https://www.propublica.org/article/intuit-turbotax-h-r-block-guttled-free-tax-filing-internal-memo>.

<sup>25</sup> See Free File MOU 2019 Addendum Provision II. Note that state Free File programs continue to be subject to this restriction. See Free File MOU, Article 1, ¶ 1.20.

<sup>26</sup> See Free File MOU 2019 Addendum Provision VII.

prior to publishing.<sup>27</sup> The Addendum now also requires Members to include a link directing taxpayers to the Free File landing page at the earliest possible point if the taxpayer does not qualify for that Member's Free File option (e.g., because they do not meet the income or age requirements for that particular software).<sup>28</sup>

Finally, the Addendum explicitly prohibits Members from blocking the appearance of their Free File websites in organic search results.<sup>29</sup> However, because the Addendum does not change or limit Members' "marketing, advertising, or promotion of commercial tax preparation software or services offered outside of Free File Program offerings," certain companies continue to engage in deceptive advertising practices.<sup>30</sup> While ad spending has noticeably increased since the signing of the Addendum, Members continue to prioritize commercial services over Free File services. Some Free File offerings are not advertised on Google at all, and the Free File offerings that are advertised appear only after the long listings of commercial offerings.<sup>31</sup>

Our own clients regularly complain about their complex and confusing journeys in attempting to file a tax return for free. The vast majority of our clients qualify for Free File. Yet many end up paying a tax return preparer (if they do not know of or cannot effectively utilize Free File) or getting caught in one of the traps mentioned above that lead them to pay a Free File company for tax return preparation. No matter the Department's excellence in marketing this product, the uptake rate is unlikely to change without systemic changes to how Free File companies themselves market and operate their Free File products. The companies' profit motives provide a disincentive to do so.

This background provides strong reasons for the Department to reconsider its own relationship with Free File. The Department cannot directly address the individual actions in the Free File program, because it must accept the Free File agreement wholesale to participate. Therefore, the Department should examine that wholesale relationship with Free File, and should specifically examine whether it is in the long-term best interest of Hoosiers to continue participation in the program.

### **Recommendations:**

- (1) Similar to the review ordered by the IRS Commissioner, the Commissioner should conduct a review of the Department's relationship with Free File;
- (2) The Department should consider implementing an optional, return-free tax compliance system for individual taxpayers who are full-year residents of Indiana;
- (3) If the Department chooses to continue collaborating with Free File, it should market Free File in a clear manner so that taxpayers understand potential pitfalls in accessing and using a truly free filing product;

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<sup>27</sup> See Free File MOU 2019 Addendum Provision V.

<sup>28</sup> See Free File MOU 2019 Addendum Provision VI.

<sup>29</sup> See Free File MOU 2019 Addendum Provision I.

<sup>30</sup> Free File MOU 2019 Addendum Provision VIII.

<sup>31</sup> Will Young, *TurboTax Is Still Tricking Customers With Tax Prep Ads That Misuse the Word "Free"*, PROPUBLICA (Feb. 18, 2020), <https://www.propublica.org/article/turbotax-is-still-tricking-customers-with-tax-prep-ads-that-misuse-the-word-free>.

- (4) If the Department chooses to continue collaborating with Free File, it should place a disclaimer on the Department's FreeFile page notifying taxpayers that filing a free federal tax return with a Member not listed on the Department Free File webpage does not guarantee a free Indiana tax return;
- (5) If the Department chooses to continue collaborating with Free File, it should not prominently encourage previous e-filers to create a new account each year as it currently does, as this may not be technically possible for taxpayers; it should instead offer this as a potential solution in the FAQ's; and
- (6) The Department should announce on its Free File webpage that H&R Block will no longer be a Member of Free Alliance after this filing season to avoid future confusion, and should update its update accordingly as other Members decide whether to stay.

## **Issue #2: Modification of Notices Sent to Taxpayers**

If the Department audits a taxpayer's return, the Department must conclude the audit with (1) a Proposed Adjustment, which proposes additional tax,<sup>32</sup> or (2) a letter proposing no additional tax. If the Department has frozen a taxpayer's refund during the audit, and the Department concludes that the taxpayer does not qualify for the refund, or qualifies for a reduced refund, the Department must also issue a formal refund denial.<sup>33</sup> Both notices must apprise the taxpayer of their right to an administrative hearing with the Department and the time frame for requesting such a hearing.<sup>34</sup>

### **Issue #2a: Modification of Proposed Assessments**

The Department uses Form AR-80, Proposed Assessment to propose additional tax under Indiana Code § 6-8.1-5-1(b). We discussed the need for the Department to modify this form in our 2018 Report as Issue #6 and although the form has been revised recently, issues persist. The AR-80, as attached as Exhibit A, currently provides information on the specific deadline for filing a protest and includes extensive payment instructions. Indiana Code § 6-8.1-5-1(d) grants the taxpayer the right to protest the proposed assessment, but the form contains no instruction regarding the protest process besides directing the taxpayer to a Department webpage for additional information. The lack of information provided in the AR-80 disadvantages taxpayers with no internet access and undermines the option of protesting.

Additionally, the notice makes it difficult for the taxpayer to directly contact the Legal Division and inquire about protesting the proposed assessment. A phone number and mailing address to the Department general customer service department is provided on the second page, but the notice fails to provide contact information directly to the Legal Division of the Department. This information is only found on the Department webpage, further putting taxpayers with limited internet access at a disadvantage.

#### **Recommendations:**

- (1) Include instructions regarding the protest process with the mailed AR-80, and a copy of the Protest Submission Form (State Form 56317) with its instructions; and
- (2) List contact information to the Legal Division of the Department.

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<sup>32</sup> Ind. Code § 6-8.1-5-1(b).

<sup>33</sup> Ind. Code § 6-8.1-9-1(b).

<sup>34</sup> Ind. Code §§ 6-8.1-5-1(d), 6-8.1-9-1(d).

## Issue #2b: Modification of Demand Notices

The Department uses Form AR-40, Demand Notice for Payment to indicate the full tax balance due when an AR-80 is not timely protested or when the taxpayer's protest is denied. The demand notice contains the minimal information required pursuant to Indiana Code § 6-8.1-8-2, including the earliest date on which a tax warrant may be filed and the statutory authority of the department for the issuance of a tax warrant.

Indiana Code § 6-8.1-8-2(a)(5) requires that the Demand Notice state remedies available to the taxpayer. Currently, as shown in Exhibit B, the AR-40 contains just one alternative remedy available to taxpayers to prevent the filing and recording of the judgment: making payment arrangements through the website. On the face of the AR-40 alone, this creates a reasonable belief that the taxpayer has no viable options but to make the payment through mail or online arrangements. While the Department webpage contains additional detail and contact information available to taxpayers seeking to address their issued AR-40s, taxpayers with limited internet access are once again disadvantaged because the information is not readily available on the Notice. Furthermore, neither the AR-40 nor the directed Department webpage lists the Taxpayer Advocate Office (TAO) as a contact for available remedies, even though the TAO is intended to assist taxpayers with unresolved or complex tax issues.<sup>35</sup>

**Recommendation:** Better inform taxpayers of remedies available. Examples include:

- (1) Include payment plan options via phone and internet directly on the AR-40; and
- (2) List contact information to the Taxpayer Advocate Office.

## Issue # 2c: "Math Error" adjustment notice

During filing season, many taxpayers receive a notice that proposes additional tax or denies a refund, but is neither a Proposed Assessment nor a formal refund claim denial. We term this letter as a "Math Error" adjustment notice, because it is analogous to a similar IRS process. This process may occur during return processing or following an audit. The Department properly uses this notice for situations where a taxpayer makes a mathematical error on a tax return. For example, if a taxpayer enters "2 + 2 = 5" on their return, the Department may change 5 to 4 using this notice. Taxpayers can reasonably expect this sort of response; indeed, it represents quality customer service.

This Notice, an example of which is attached as Exhibit C, consists of two pages. The first page is the same for all taxpayers; it advises the taxpayer that their return was received and that the Department discovered "inconsistencies" in the return, which are identified on page two. It asks the taxpayer to review page two and that if the taxpayer agrees with the result, they will either receive a reduced refund or a Proposed Assessment reflecting the additional proposed tax. The letter then directs taxpayers to the payment coupon attached on page two to make a payment. The letter continues on to say that if the taxpayer believes the result to be incorrect, they may submit an explanation and documentation

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<sup>35</sup> See Indiana Dept. of Revenue, *Taxpayer Advocate Office* (last visited June 22, 2020), <https://www.in.gov/dor/contact-us/tao/>.

within 20 days to the Department's Indianapolis office—the contact information for the Department's local offices is provided at the bottom of the letter. The letter also notes that if the taxpayer does not agree with the result, they may file a written protest within 60 days with the Department. This is confusing for taxpayers who wish to contest the conclusions of the letter; they are presented with two options to challenge, but no distinction is provided to help taxpayers determine the appropriate avenue for their situation.

Page two of Exhibit C is entitled “Payment Filing Coupon” and has a subtitle of “[Tax Year] [Tax Form] Return Line-by-line Change or Changes”. It then provides a line-by-line breakdown of the taxpayer's return and proposed changes, including columns for “Reported”, “Corrected”, and “Reason”. The “Reason” is, in our experience, always “adjusted to agree with our records” or “error in addition of credits”, which essentially provides no useful information to a taxpayer. The true reason for the change—decipherable only by a trained tax practitioner—never appears to be the math error for which the notice is designed. Rather, it makes **substantive** changes to the tax return. Because a Payment Filing Coupon is attached to page two (and is, indeed, the title on the page), many taxpayers believe that they now owe a debt to the Department and pay the amount sought without complaint.

We addressed several problems regarding these notices in Issue #2 of our 2019 Report, and commend the Department on the improvements made to the updated letter. The letter now provides instructions on where a taxpayer may send their information if challenging the letter, rather than simply listing the addresses on the bottom of the letter. The letter now also apprises the taxpayer of their right to receive a Proposed Assessment in the event of a refund denial. The taxpayer now knows to expect additional information, rather than rely on the Notice as the sole communication regarding the adjustments made to their returns.

However, the updated notice can still be improved. First, it still fails to effectively apprise taxpayers of the substantive changes to their tax returns. In our own experiences, the Department has used this notice to conclude audits, disallow deductions for unemployment compensation, and disallow credits for tax withheld. Consistently, none of the affected taxpayers understood what changes were made and why they were made. A seasoned tax practitioner needed to interpret the notices for the taxpayers. When the taxpayer is not apprised of the substantive changes made to their return, it becomes difficult for a taxpayer to know exactly what they should challenge or what documents to submit.

Second, the Notice creates a confusing distinction when listing options for disputing its conclusions. As mentioned above, the letter instructs the taxpayer who believes the result in the Notice to be incorrect to submit an explanation and documentation within 20 days to the DOR's Indianapolis office. The letter continues to say that if the taxpayer does not agree with the result, they may file a written protest within 60 days with the Department. What, if anything, is the distinction between these two options for the taxpayer who wishes to challenge the conclusions of the Notice? The taxpayer must make a seemingly arbitrary decision as to whether they believe the notification is incorrect or whether they disagree with the Department. The processes for these two avenues to challenge the conclusions in the Notice have varying timelines and require the taxpayer to take very different actions—submitting an explanation directly to the Department within 20 days or filing a written protest within 60 days. The taxpayer is given no clear direction or guidelines as to which procedure applies to them.



Third, the letter includes little to no information regarding the formal protest process. If a taxpayer wishes to file a written protest, the letter does not make them aware that they also have to submit a Protest Submission Form. The letter does not let the taxpayer know where to send the written protest, and it does not include contact information to the Legal Division. The letter simply directs the taxpayer to a Department webpage, disadvantaging taxpayers with limited internet access.

Moreover, the Department cannot simply treat the Math Error notice as a Proposed Assessment, as the 60-day time frame appears to do. This notice does not comply with the Indiana Code's requirements for what must appear in a Proposed Assessment. If it seeks to propose additional tax without the taxpayer's consent, the Department must issue a Proposed Assessment subsequent to the math error notice. To the extent it does not, any resulting assessment is unlawful.

Fourth, as mentioned in our 2019 Report as Issue #2, the Notice still reads like a bill. The Notice begins by directing the taxpayer to the Payment Filing Coupon on the back of the letter. Many taxpayers detrimentally presume that the Department's calculations are correct due to the prominence of the Payment Filing Coupon and the clear logistical instructions to make the payment.

**Recommendations:**

- (1) If the Department continues to use the Math Error notice for substantive changes to a tax return, it should change the notice so that it includes information on those changes, in plain language so that taxpayers may understand the proposed change;
- (2) The Department should list eligibility criteria for each option to challenge the conclusions of the letter to guide taxpayers in taking the appropriate approach;
- (3) The Department should include the information on its webpage regarding the written protest process directly on the letter, and include the Protest Submission Form;
- (4) If the Department wishes to use the math error notice as a Proposed Assessment, it must change the language of the notice to comply with Indiana Code § 6-8.1-5-1(d); and
- (5) The Department should reformat the Math Error notice so that taxpayers do not confuse it with a bill (i.e., a Demand Notice).

### **Issue #3: Taxpayer Payment History**

As we highlighted in 2017, 2018, and 2019, there remains no comprehensive way to determine what payments have been received or for what tax years payments have been made on a taxpayer's account. Without this system, taxpayer and practitioner efforts at collections compliance are often frustrated. The Internal Revenue Service provides Account Transcripts, upon request via mail or through its e-services portal, that easily allow practitioners to review any payments made, how those payments were made, and the date those payments were applied on each tax year.

Taxpayers, representatives, and the Department's employees need to easily understand a client's tax payment history—including both withholding information and payments made on liabilities, whether open or satisfied. Yet currently, the only mechanism is to orally obtain this information from the Department, or in a local office (if an employee has time and is gracious enough to create a bespoke payment spreadsheet).

**Recommendation:** Ensure that the Project NextDOR software that will be rolled out for individual taxpayers in Fall 2021 includes an effective payment tracking system, including withholding, estimated tax payments, voluntary payments, state and federal tax refund offsets, and enforced collection activity.

#### **Issue #4: Offer in Compromise & Hardship Procedures**

The Department's Offer in Compromise program and Hardship programs continue to suffer from two related, but distinct problems:

1. The Department does not publish guidelines for how it evaluates Offers in Compromise or Hardship applications.
2. The Department's unpublished guidelines and practices for evaluating these applications—especially for low-income taxpayers—are *ad hoc*, arbitrary, and misguided. These policies do not serve the affected taxpayers or the public *fisc*, because they neither focus on the taxpayers' ability to pay nor encourage voluntary compliance.

#### **Background**

Indiana Code § 6-8.1-3-17(a) provides the Commissioner with authority to “settle any tax liability dispute if a substantial doubt exists as to . . . the collectability of the tax.” Recently enacted legislation amended this section to clarify that the Taxpayer Advocate Office (TAO) has authority to settle cases on the same basis, “to the extent granted the authority by the commissioner.”<sup>36</sup> The Department has traditionally exercised this authority through the TAO's Offer in Compromise (OIC) program. The TAO created a form—the FS-OIC—for taxpayers to submit offers to compromise their tax liability for less than the amount owed. Modeled after the federal Offer in Compromise form, the Indiana OIC provides an opportunity to demonstrate doubt as to the collectability of the tax, as the General Assembly contemplated in Indiana Code § 6-8.1-3-17(a)(4).

The form invites taxpayers to provide information on their household, employment, assets, income, expenses, debts, and any other additional information the taxpayer believes is relevant to the offer. The form also asks the taxpayer to propose an offer and the payment terms. Finally, the form requires a signature, verifying the information under penalties of perjury, and asks the taxpayer to attach a “letter of circumstance” and “all of the required supporting documentation (including proof of income and expenses).” The form, attached as Exhibit D, was last updated in 2015.

The required documentation includes (1) the completed Form FS-OIC; (2) “documented supporting evidence for all income, expenses, and accounts listed on Form FS-OIC for the most recent month”; (3) a Letter of Circumstance, “explaining in detail what prevented you from paying the taxes when they were due and what is currently preventing you from entering into a payment plan agreement with the IDOR.”; (4) a medical statement from a physician, if applicable; and (5) a bankruptcy discharge or dismissal notice, if applicable.

The form instructions detail the general terms of the offer agreement. Generally, taxpayers must make a “reasonable offer based on your total debt and your earnings potential.” Prior to accepting an offer, the taxpayer must also come into filing compliance and agree to fully comply with payment and filing requirements for future tax periods. Unlike the federal Offer in Compromise program, which requires a 5-year post-acceptance compliance period,<sup>37</sup> this period appears to be indefinite.

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<sup>36</sup> 2020 Ind. Legis. Serv. 146 (West).

<sup>37</sup> Internal Revenue Manual (“I.R.M.”) 5.19.7.2.19.4 (10-30-2018).

If a taxpayer violates the post-acceptance conditions, the form states that “Your Offer in Compromise payment plan agreement will be cancelled; your case will be closed; [and] normal collection activities will resume. In addition, any penalties, interest, fees, costs, and damages previously waived will be added back to the amount due.” Additionally, the Compromise Payment Agreement<sup>38</sup> letter that the taxpayer signs at the conclusion of an accepted OIC provides that the Department may subsequently “revoke professional licenses, permits and retail merchant’s certificate(s).” The Agreement also notes that any state tax refund will be applied to the liability; there is no time limit on this, and the Department’s actual practice on this matter is unclear. Finally, the Agreement notes that if the taxpayer receives a windfall within three years from the date of completion of the payment agreement, the Department reserves the right to collect a percentage thereof. The Agreement terms appear to allow the Department unfettered discretion in this regard.

The Department does fairly well in explaining to taxpayers (1) the information it will consider;<sup>39</sup> (2) what information and documentation the taxpayer must submit; (3) what terms and conditions by which the taxpayer must abide; and (4) the consequences for breaching the agreement.

### **Failure to Publish Offer and Hardship Standards**

However, as we highlighted in 2018 and 2019, the Department, through its Taxpayer Advocate Office, does not explain to Hoosier taxpayers *how* it evaluates hardship payment plans or offer in compromise applications. What demonstrates the “doubt as to collectability” of a tax that would give the Commissioner or the Taxpayer Advocate the authority to compromise the liability under the Indiana Code? How does the Department consider the taxpayer’s assets, income, expenses, and other debts in determining whether to accept the taxpayer’s offer?

The Department provides no answers to these questions. No regulations or other guidance exists on how the Department considers these data. Over the past three years, the TAO has orally suggested to practitioners and the Commissioner’s Advisory Council that it has reviewed its Offer in Compromise and Hardship programs, and has implemented beneficial changes for low-income taxpayers.

Over the past year, TAO has indeed adopted part of the IRS offer in compromise procedures, making the submission and determination process easier for the TAO, taxpayers, and practitioners. The TAO now allows taxpayers who submit a federal offer in compromise to the IRS to forward a copy of their federal offer (IRS Form 433-A (OIC) and Form 656 with supporting documents) to the TAO in lieu of the FS-OIC. Additionally, the TAO allows taxpayers to claim up to the IRS standard expense allowance for (1) food, clothing, and miscellaneous and (2) transportation, without documentation, unless the taxpayer claims an amount above the standard. Accepting the IRS standard allowances cuts down on the required documents from the taxpayer and reduces the Taxpayer Advocate Office staff’s workload. As noted below, the Department should still publish these standards, along with adopting

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<sup>38</sup> See Exhibit E.

<sup>39</sup> Occasionally, practitioners have received a form rejection letter after submitting all requested information, which states that the taxpayer did not submit all required information. While the Department has improved somewhat in this regard, it should continue to work on clearly specifying what information is required and communicating directly with taxpayers via phone or email to identify missing documentation and arrange to supplement the Department’s record.

other standards that shift the core of the offer in compromise inquiry from delinquent debt collection to future compliance.

These changes, however, only apply to *what* information the Department will consider in its offer and hardship adjudications—not *how* the Department will consider that information. The Department has largely failed to change this aspect of its Offer in Compromise and Hardship programs.

Indeed, the Department continues to fail to publish guidelines for these programs. Taxpayers and practitioners must still guess, both when preparing and submitting the application and when negotiating with the TAO. And we, as practitioners, have continued to negotiate offers with the TAO, the outcomes of which appear arbitrary or even nonsensical. In some cases, they have placed our clients into a worse position than they began.

A core tenant of federal administrative law is that an agency must publish the guidelines by which an application or other form of relief will be adjudicated.<sup>40</sup> Indiana likewise requires the publication of similar guidelines for adjudications before state agencies.<sup>41</sup> Yet, the Department does not provide a written record of this policy to the public.

Therefore, contemporaneously with this report, we have submitted a request to the Department under the Indiana Access to Public Records Act. This request, attached as Exhibit F requests a copy of any written policy the Department maintains regarding its Offer in Compromise, Economic Hardship, and Hardship payment plan programs in the TAO. We hope the Department will, as soon as practicable, fully respond to this request.

We should not have needed to make this request. The Department should clearly establish and publish these rules in the first instance, without requiring a third-party request like the one we have just made.

Why should the Department publish this policy? Publishing these guidelines is a best practice for government that the Department should follow.<sup>42</sup> Without transparency in the consideration of offers—either in advance or in communicating an offer’s rejection—the TAO’s offer rejections often appear arbitrary, inconsistent, and unfair. Indeed, these criteria form the rationale for why the federal government, for the past half century, has generally published its formal and informal policy guidelines. The Administrative Conference of the United States (ACUS) has, since 1971, recommended the following standards for the publication of any agency action:

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<sup>40</sup> See 5 U.S.C. § 552(a)(1)(D); *see also* Administrative Conference of the United States, Recommendation 71-3 (1971), available at <https://www.acus.gov/sites/default/files/documents/71-3.pdf>.

<sup>41</sup> See Ind. Code §§ 4-22-2-3(a); 5-14-3.

<sup>42</sup> The Department may have an obligation to do so under Indiana law. Indiana Code § 4-22-2 requires the Department, whenever it adopts a “rule,” as defined in Indiana Code § 4-22-2-3(b), to follow certain procedural requirements regarding the adoption of the rule. Indiana Code § 4-22-2-17 provides that the text of such rules is subject to public disclosure under Indiana Code § 5-14-3, Indiana’s “Access to Public Records Act.” A “rule” is “any agency statement of general applicability that (1) has or is designed to have the effect of law; and (2) implements, interprets, or prescribes (A) law or policy, or (B) the organization, procedure, or practice requirements of an agency.” The Indiana Supreme Court recently clarified the meaning of “effect of law”: “an agency regulation carries the effect of law when it prescribes binding standards of conduct for persons subject to agency authority.” *Ward v. Cater*, 90 N.E.3d 660, 665 (Ind. 2018).

Agency policies which affect the public should be articulated and made known to the public to the greatest extent feasible. To this end, each agency which takes actions affecting substantial public or private interests, whether after hearing or through informal action, should, as far as is feasible in the circumstances, state the standards that will guide its determination in various types of agency action, either through published decisions, general rules or policy statements other than rules. Each such agency from time to time should review its precedents, rules and policy statements to assure that they accurately reflect the agency's developing experience. If rulemaking is used for these purposes, each agency should establish and publish general or particular procedures (whether or not such procedures are required by statute) that define the extent and manner of public participation appropriate in the circumstances.<sup>43</sup>

The secretary of the ACUS committee recommended providing such guidance because of the inherent dangers of informal agency action: "arbitrariness, inconsistency, unfairness, and possible corruption."<sup>44</sup>

The benefits of publishing the TAO's evaluation criteria and guidance is two-fold. First, publication of the evaluation criteria and guidance promotes overall greater transparency for the Department, which cuts against the dangers of informal agency policy that currently manifest themselves in the TAO. When the TAO denies a compromise or hardship plan request, the taxpayer and tax practitioner often do not know the basis of the declination. Denials are typically one or two sentences containing a broad statement of denial, either without a rationale directly tied to the taxpayer's individual circumstances or one that appears to bear an illogical relation thereto. If the Department publishes its evaluation criteria, this can allow for greater understanding among taxpayers and Department employees alike, along with a more deliberate, substantive consideration of such policies from Department leadership, prior to implementation.

Second, published guidelines promote efficiency for both taxpayers and the Department. If these guidelines are published, taxpayers and tax practitioners can make a preliminary determination as to whether the Department would accept their compromise requests or hardship applications based upon the actual criteria the Department uses. This would eliminate needless applications to the TAO when, for example, a standard payment plan would be more appropriate.

The TAO has previously countered that binding regulations or policy, such as those promulgated by the IRS, would tie its hands, and prevent it from assisting taxpayers with unique circumstances. But the Department can itself promulgate policy that allows for the consideration of these circumstances—much like, as we note below, Congress has already done for the IRS.

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<sup>43</sup> Administrative Conference of the United States, Recommendation 71-3 (1971), *available at* <https://www.acus.gov/sites/default/files/documents/71-3.pdf>.

<sup>44</sup> Brice McAdoo Clagett, *Informal Action—Adjudication—Rule Making: Some Recent Developments in Federal Administrative Law*, 1971 Duke L.J. 51, *available at* <https://www.acus.gov/sites/default/files/documents/1971-03%20Articulation%20of%20Agency%20Policies.pdf>.

Indeed, pursuant to a Congressional mandate, the Internal Revenue Service fully publishes all of its evaluation criteria on its website in the Internal Revenue Manual.<sup>45</sup> This publication allows taxpayers and tax professionals to evaluate a compromise request before it is submitted to the IRS. Also, tax professionals and IRS employees can discuss evaluation criteria in an informed manner and intelligently discuss whether a taxpayer meets these criteria. This publication promotes fairness, transparency, and overall confidence in the evaluation process of an Offer in Compromise or financial Hardship request.

### **The Benefit of an Offer in Compromise: Voluntary Compliance**

Publishing guidelines as recommended above would help the Department achieve transparency, efficiency, and greater confidence in the fairness of its adjudications. But *what* guidelines should the Department adopt?

The Commissioner is authorized to settle tax liabilities based upon “doubt as to collectability.” So, what **should** “doubt as to collectability” mean? And why has the General Assembly granted the Department authority to settle a tax debt on this basis? I.e., **why should** the Department grant an offer in compromise based upon doubt as to collectability? Indiana legislative history on this question is sparse, but the federal government’s experience offers a helpful reference point.

In the 1998 IRS Reform Act,<sup>46</sup> Congress expressed its sentiments towards the federal Offer in Compromise program, which in Congress’ view, did not provide adequate protections for taxpayers or offer a meaningful opportunity to compromise delinquent tax liabilities. Accordingly, Congress enacted four relevant changes:

1. Congress directed the IRS to “prescribe guidelines . . . to determine whether an offer-in-compromise is adequate and should be accepted . . . .” (Now codified at I.R.C. § 7122(d)(1)).
2. Congress directed the IRS to “develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.” (I.R.C. § 7122(d)(2)(A)).
3. Congress also provided the IRS with discretion to account for hardship situations that fell outside of the schedules’ ambit: “The guidelines shall provide that officers and employees of the [IRS] shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules . . . is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.” (I.R.C. § 7122(d)(2)(B)).

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<sup>45</sup> Internal Revenue Manual 5.8.5, Financial Analysis, [https://www.irs.gov/irm/part5/irm\\_05-008-005r](https://www.irs.gov/irm/part5/irm_05-008-005r); *see also* I.R.C. § 7122(d)(1).

<sup>46</sup> Pub. L. No. 105-206, 112 Stat. 685 (1998).

4. Congress directed that “an officer or employee of the [IRS] shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer.” (I.R.C. § 7122(d)(3)(A)).

Congress explained its rationale for these changes in the accompanying Senate report:

The Committee believes that the ability to compromise tax liability and to make payments of tax liability by installment enhances taxpayer compliance. In addition, the Committee believes that the IRS should be flexible in finding ways to work with taxpayers who are sincerely trying to meet their obligations and remain in the tax system. Accordingly, the Committee believes that the IRS should make it easier for taxpayers to enter into offer-in-compromise agreements, and should do more to educate the taxpaying public about the availability of such agreements.

...

It is anticipated that the IRS will adopt a liberal acceptance policy for offers-in-compromise to provide *an incentive for taxpayers to continue to file tax returns and continue to pay their taxes*. (emphasis added).<sup>47</sup>

Two decades ago, Congress recognized that the primary benefit to the government of a tax settlement program is **not** the collection of as much delinquent revenue as possible; it is the guarantee of future filing and payment compliance.

The IRS, accordingly, designed its policies around this truth. The IRS considers (1) the taxpayer’s net equity in assets and (2) the taxpayer’s net monthly income for a period of 12 to 24 months, depending on the offer’s payment timeframe.<sup>48</sup> This amount is known as the taxpayer’s “Reasonable Collection Potential.” If the taxpayer offers at least as much as her Reasonable Collection Potential, the IRS will generally accept the offer, regardless of the amount of the underlying tax debt.

The Department’s informal, unarticulated policy does not recognize this reality. From our experience, TAO makes offer determinations by comparing the proposed offer amount with the outstanding liability. If the proposed offer amount falls below a certain percentage of the liability, the offer is rejected.<sup>49</sup>

This is the wrong comparison to consider. It focuses entirely on the collection of as much delinquent revenue as possible, and does not prioritize the much more valuable promise of future voluntary compliance.

This policy also effectively denies low-income Hoosiers the ability to compromise their tax debts. It is true that the Department will receive little money from low-income taxpayers who submit offers in compromise, at least compared to the underlying liability. But it gains something much more valuable:

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<sup>47</sup> S. Rep. No. 105-174 at 88-90 (1998), *available at* <https://www.congress.gov/105/crpt/srpt174/CRPT-105srpt174.pdf>.

<sup>48</sup> *See generally* I.R.M. 5.8.5.

<sup>49</sup> We cannot, however, be sure that the TAO actually takes this approach, because as noted above, the Department fails to publish its guidelines.



**voluntary compliance.** It gains the value of the taxpayer timely filing and paying tax liabilities for all future tax periods.

Unlike the Department, the IRS recognizes that settling tax debts, even when the tax agency cannot collect an appreciable sum from the taxpayer, is beneficial to both taxpayers and the agency. Settling the tax debt relieves the taxpayer's burden and motivates the taxpayer to be in filing and payment compliance going forward. The agency removes the tax debt off its books and ceases to spend money on pointless collection efforts. But much more importantly, the tax agency makes the settlement contingent upon future filing and payment compliance—bringing in tax dollars and compliance it might not have otherwise seen.

Examples from our clients demonstrate the wrongheaded and arbitrary nature of the Department's current policies. One of our clients incurred a state tax debt of about \$2,500 because she liquidated her retirement account during 2016 and 2017, while suffering from breast cancer. She used these distributions to purchase a 1996 mobile home and a 2003 sedan with over 200,000 miles. She no longer works, and her social security disability appeal is pending. Her 22-year-old daughter works as a grocery store clerk, earning approximately \$17,000 per year. They live together in the taxpayer's mobile home, and the daughter pays all of the taxpayer's living expenses, including the mobile home lot rent. The taxpayer does not expect to return to the workforce but will not reach retirement age for over fifteen years. The taxpayer submitted an offer in compromise to settle her tax debt for \$5 due to no reasonable collection potential. The TAO made a counteroffer of \$1,200—something our client could never afford under these circumstances. Selling any of the clients' assets would render her and her daughter homeless and unable to earn their already meager living. We rejected the offer and TAO placed the taxpayer into an extended financial hardship status.

Even worse, the TAO has, in our experience, implemented a policy to reject all low-dollar offers from taxpayers who have a negative income, like our client above.<sup>50</sup> A negative income occurs when a taxpayer's necessary, allowable expenses exceed the taxpayer's monthly income. The TAO rejects those offers because, in their view, the taxpayer cannot afford to pay the offer amount, even if the offer amount is minimal. This reason for rejection borders on pretext; even low-income taxpayers whose expenses exceed their income can come up with \$10 to \$100 to settle their tax liabilities. The real reason for rejection, we suspect, is that the amount offered does not represent a sufficient percentage of the underlying liability.

Another example involves a taxpayer with cognitive impairments. She works part-time at a local Goodwill store and receives Supplemental Security Income. A local social service agency, Aspire Indiana, provides the taxpayer with a caseworker to assist the taxpayer with everyday tasks such as grocery shopping because she is unable to do them on her own. In 2005, the taxpayer's mother allegedly manipulated the taxpayer into using the taxpayer's name and social security number for the mother's business, resulting in a tax debt to this vulnerable, disabled taxpayer. The taxpayer now owes about \$4,000 to the Department for tax year 2005 but cannot dispute the debt because the mother is deceased and documentation of the fraud no longer exists. The taxpayer submitted an offer in compromise for \$10 per month for 12 months. The TAO denied the offer because the taxpayer's expenses exceed her income by \$300 each month. The taxpayer explained that she could likely borrow

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<sup>50</sup> In our experience, this policy remained in place as late as May 2020.

or save \$10 per month because she wants to be free of the tax debt and move on. The TAO repeatedly denied the offer and placed the taxpayer in a financial hardship status for 36 months rather than resolving the tax debt.

The financial situations for these low-income taxpayers have no reasonable likelihood of changing. The Department's failure to compromise these liabilities is arbitrary, because it considers the wrong criteria. Instead of considering the taxpayer's ability to pay and the promise of future compliance, the TAO throws good money after bad. The Department should center its Offer in Compromise program on considering the taxpayer's current ability to pay, while significantly valuing the taxpayer's future compliance. Should the Department adopt this approach, the IRS guidelines represent a reasoned and deliberative model for so doing.

**Recommendations:**

- (1) Publication of all Department policy related to the evaluation of Offer in Compromise requests and Economic Hardship requests; and
- (2) Revision of these guidelines to focus on the taxpayer's ability to pay; rescission of all guidelines that focus on a comparison between the amount of the liability and the ability to pay; and a focus on prioritizing the taxpayer's future voluntary compliance.

### **Issue #5 : Notices for Authorized Representatives**

As we highlighted in 2018 and 2019, 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. Often, practitioners call the Department to learn the status of a hardship request 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.

During 2018, the Taxpayer Advocate Office implemented a policy of systemically copying practitioners on correspondence; this is a welcome development. Now if the Taxpayer Advocate Office does not copy a practitioner on any correspondence, we notify the Taxpayer Advocate Office immediately, and the issue is usually resolved quickly. However, we urge the Department and TAO leadership to continue to ensure that TAO employees are appropriately trained on copying practitioners on any correspondence to taxpayers.

Finally, during 2018 and 2019 the authors of this report discussed with the Department's legal division and customer service division the practicalities of copying all practitioners on all of the Department's correspondence. We understand that the Department continues to work on addressing open issues with an eye towards copying practitioners on correspondence in the future. We also understand that with the implementation of Project NextDOR, this may involve electronic access by practitioners to taxpayer notices and correspondence. Nevertheless, because practitioners are not currently and systemically copied on correspondence, we again highlight this as one of the most serious issues facing Hoosier taxpayers for 2020.

**Recommendation:** Copy representatives on all Department correspondence.

## **Issue #6: Vehicle Lien Release Procedures**

The Department has broad powers and discretion in the collection of delinquent taxes from Hoosiers. Indiana Code § 6-8.1-8-2(b) authorizes the issuance of a tax warrant against any person who owes the Department and fails to pay a Demand Notice within 20 days. This warrant, once filed with a circuit court clerk, operates as a judgment lien against a taxpayer's property. Based on the authors' understanding, departmental policy requires the filing of a tax warrant when a taxpayer owes in excess of \$50.00 to the Department. The Department has the authority to release the lien if the cost of selling the property is either greater than the tax liability, if the sale would not reduce the liability by either 10% or \$1,000,<sup>51</sup> or if the taxpayer makes satisfactory arrangements with the Department for the payment of the tax.<sup>52</sup>

These liens are sometimes attached to vehicle titles, effectively stripping the vehicle of any tangible value. Current vehicle owners are not able to pay the amount of the judgment lien and potential buyers are not inclined to purchase the vehicle without established procedures to follow on obtaining a lien release. Without clean title, the vehicle may not be sold or given away. This leads to abandoned vehicles left on residential property, resulting in local fines as well as environmental problems or storage fees at vehicle repair locations because they cannot be sold or removed. Taxpayers do not intend to receive any benefit from the sale or salvage of these vehicles, but only to prevent additional fines or other costs related to these unusable vehicles.

The Department and the Bureau of Motor Vehicles (BMV) currently have no published procedures on how an individual may obtain clean title. Upon placing the lien, the Department mails a Notice of Title Lien to the taxpayer indicating that the title of the vehicle is being retained by the Department. The Notice, attached as Exhibit G, informs the taxpayer that the lien will be released and the title will be forwarded to them upon full payment of all outstanding liabilities. The letter contains no payment instructions. The letter concludes by including a single Department phone number for the taxpayer to contact. As of March 2019, the phone number on the letter directs the taxpayer to the Department's Employment Agency Listing division. This is inconsistent with the Department webpage, which instead directs taxpayers seeking additional information regarding a vehicle title lien to the Compliance Check Unit. The BMV also mails a letter, indicating that the "only way [the] lien may be removed is by making full payment of any delinquent Indiana State taxes owed," and similarly provides no instruction on how to make the payment.<sup>53</sup> Neither letter instructs the taxpayer on how to release the lien, whether or not the taxpayer fully pays the liability.

Neither the BMV nor Department websites have published procedures on how to obtain clean title. The BMV webpage<sup>54</sup> states that to remove the lien from the vehicle's title, the lien must first be released by the lienholder. The BMV website offers three options—having the individual lienholder sign off on the lien release section of the title; requiring the vehicle owner to obtain a lien release letter; or requiring the vehicle owner to obtain a general affidavit, State Form 37964. However, the BMV website does not indicate how an individual can request a lien release. The Department website similarly provides little information, informing the customer with outstanding liens that they will have

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<sup>51</sup> Indiana Dept. of Revenue, *Audit Manual* (May 2020), <https://www.in.gov/dor/files/audit-manual.pdf>.

<sup>52</sup> Ind. Code § 6-8.1-3-16(b).

<sup>53</sup> Exhibit H.

<sup>54</sup> Indiana Bureau of Motor Vehicles, *Titles* (last visited July 15, 2018)

DOR tax liens placed on the titles, and instructing them to contact the Compliance Check Unit for additional information.<sup>55</sup>

From the authors' experience, the lien release may be requested by paying the outstanding liabilities either by phone, online via DORpay, or by mail. Once payment is cleared—a process that can happen instantaneously or can take several days—the Department will mail the signed lien release to the taxpayer. However, this does not automatically issue a clean title. The individual seeking to have the titled cleared must then either (1) physically take the signed lien release, the current vehicle title, and the vehicle information to the BMV to have a clean title issued for \$15, or (2) mail the documents in addition to State Form 205-Application for Certificate of Title for a Vehicle to the BMV. This information cannot be located on either Department or BMV websites, or on the letters issued by each agency.

This lack of published procedures causes confusion and inefficiencies when a taxpayer is seeking to clear title to their vehicle or when a potential vehicle buyer is seeking to obtain clean title. Indiana Code § 6-8.1-3-16(d) instructs the Department to provide a monthly list of all tax warrants to the BMV, yet the vehicle owner is required to bridge the gap between the Department and the BMV for issuance of clear title. In theory, the BMV already knows the details regarding a lien release, but current procedures require the taxpayer to provide the BMV with their own verification of the lien release because the BMV's system is unreliable.

#### **Recommendations:**

- (1) Provide published guidance and procedures on how a taxpayer may release their vehicle title lien and obtain clean title. Procedures should include detailed payment options and direct contact information to both the Department and the BMV;
- (2) Procedures should be included on both the mailed notices sent to taxpayers, and on a Department webpage; and
- (3) The Department should consider collaborating with the BMV to implement an online vehicle lien release system to improve communication between the departments and ensure a more reliable system for impacted taxpayers.

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<sup>55</sup> Indiana Dept. of Revenue, *Stages of Collection* (last visited June 22, 2020), <https://www.in.gov/dor/3960.htm>.

## **Issue #7: Innocent Spouse Procedures**

The Internal Revenue Code establishes joint and several liability for spouses filing a joint return.<sup>56</sup> When married taxpayers file a joint federal income tax return, they hold joint and several liability for income tax owed to the government, even if one spouse earned most or all of the income. A taxpayer may seek relief from this joint liability under IRC § 6015, commonly known as “Innocent Spouse” relief. In general, taxpayers qualify for relief under IRC § 6015 when the reason for any understatement or underpayment was attributable to the other spouse; the requesting spouse did not know or have reason to know of any understatement or underpayment of tax; and taking into account all facts and circumstances, it would be inequitable to hold the requesting spouse liable for the tax.

In contrast, the Indiana Code does not establish joint and several liability for joint returns. Ind. Code § 6-3-4-2. “Where a joint return is filed by a husband and wife hereunder, **one spouse shall have no liability for the tax imposed by this article upon the income of the other spouse.**” Instead of establishing joint and several liability, and providing a discretionary relief mechanism, Indiana Code § 6-3-4-2 protects spouses in the first instance from incurring income tax accrued by the other. Therefore, the State may not lawfully pursue one spouse for payment of the other’s income tax. Nevertheless, the Department commonly does so.

Indeed, Indiana law requires a married taxpayer who files a joint federal tax return to also file a joint state tax return.<sup>57</sup> The IT-40 Income Tax Instruction Booklet advises taxpayers of this rule<sup>58</sup>. However, the taxpayers are not advised that a joint state tax return does not create joint and several liability for income tax like a federal tax return. Moreover, the IT-40 and accompanying instructions do not provide a standard form for allocation of income, deductions, credits, or payments between spouses.

Accordingly, the Department’s software creates a joint tax assessment for joint taxpayers who report a balance due or have a balance due resulting from a joint tax return. Although Indiana law clearly states that there is no liability, the Department does not automatically split the tax liability pursuant to the spouses’ income. Indeed, it does not have the information it needs to do so, because Indiana does not require a joint tax return to identify separate sources of income, deductions, credits, or payments. Rather, the Department pursues collection of a joint assessment, does not publicize the separate liabilities, and requires the taxpayer to proactively request separation of liabilities in a confusing, redundant manner.

To separate any liability under Indiana Code § 6-3-4-2, Hoosiers must file Innocent Spouse Allocation Worksheets (Form IN-40SP) to apply for so-called “Innocent Spouse” relief. The instructions in this document, attached as Exhibit I, call for the taxpayer to provide W-2 and 1099 forms from both spouses; a copy of the federal income tax return; a copy of the Indiana tax return; and copies of a federal innocent spouse approval. Additionally, it requires the applicant to provide a detailed letter describing why he or she feels entitled to innocent spouse protection.

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<sup>56</sup> I.R.C. § 6013(d)(3).

<sup>57</sup> Ind. Code § 6-3-4-2(d).

<sup>58</sup> INDIANA DEPT. OF REVENUE, IT-40 FULL-YEAR RESIDENT INDIVIDUAL INCOME TAX BOOKLET 5 (2019), available at <https://www.in.gov/dor/6524.htm>.

There are three main issues with the existing Form IN-40SP process. First, the Department already possesses much of the requested information. In particular, requesting the taxpayers' joint Indiana tax return is redundant. Taxpayers requesting relief may no longer have access to relevant W-2 or 1099 information, especially divorced or widowed taxpayers—yet the Department likely already possesses this information.

Second, the Department has no basis for requiring a letter (or even an application) from the taxpayer. “Innocent Spouse” relief is a misnomer, particularly given the discretionary nature of the federal innocent spouse process. So long as a taxpayer can demonstrate that their income generated a lower liability than that which the Department has jointly assessed and (in many cases) collected, relief should be granted without requiring any explanation from the taxpayer.

Third, the preliminary instructions on Form IN-40SP are confusing and may mislead taxpayers into believing that they do not qualify for relief. Whether the IRS determines to grant relief under IRC § 6015 is irrelevant to relief under Indiana Code § 6-3-4-2. A spouse's knowledge (“the innocent spouse was unaware or had no access or use of that income”) is likewise irrelevant. The rest of the instructions are underinclusive of the taxpayers potentially eligible for relief (“all of the income reported was the spouse's income”; “you filed and paid your Indiana income tax that was due”; “the innocent spouse had no compensation from this income”).

Despite issues with the current innocent spouse procedures, the processing time for innocent spouse requests greatly improved over the past year. Now, the processing time is often 60 days or less, instead of the previous 3 to 6 month processing time. We commend the Department for this improvement. Nevertheless, this procedure violates the clear structure that the General Assembly established for the Department to implement and should be changed as we recommend below.

**Recommendations:**

- (1) Create a new schedule for the IT-40 that allocates items of income, deductions, and credits among spouses filing a joint return. Consistent with the Indiana Code, process any resulting liability as **two separate assessments**. This would obviate the need for the current post-filing relief process and could be accomplished using information that taxpayers already provide to tax return preparers or input into commercial tax preparation software.
- (2) Alternatively, develop a simpler form to request Innocent Spouse relief with clearer instructions. This will allow for quicker turnaround, will not dissuade eligible taxpayers from pursuing relief, and will reduce discretion in granting the mandatory relief that the Indiana Code requires.

## **Issue #8: Injured Spouse Procedures**

Unlike an “innocent spouse,” an “**injured** spouse” is someone whose joint tax refund is used to cover the separate past-due debts of the other spouse. These separate debts generally fall into three categories:

1. State income tax debts;
2. Debts to other state agencies, including past due child support and past-due tuition owed to state educational institutions; and
3. Debts to the federal government, including federal tax debt and defaulted Department of Education loans.

When one spouse owes a debt obligation that will offset their joint **federal** tax refund, the non-liable or “injured spouse” may file IRS Form 8379<sup>59</sup> with their joint federal tax return to ensure his or her portion of the joint federal tax return refund will be refunded to the injured spouse.

As discussed above in Issue #7, Indiana law provides that one spouse is not liable for the income tax attributable to the other spouse’s income. Therefore, the Department has determined that there is no “injured spouse” as it relates to state tax debt. The Department advises non-liable spouses to file innocent spouse allocation worksheets (Form IN-40SP) to request their share of joint state tax refunds that will be offset to cover liable spouses’ state tax debts. For example, a taxpayer incurs state (and federal) tax debt as a single taxpayer in 2015 and marries in 2018. For tax year 2019, the couple files jointly and expects joint tax refunds. The non-liable spouse would need to file an innocent spouse allocation worksheet to receive her share of the 2019 state tax refund. However, she would file a federal injured spouse request (IRS Form 8379) to receive her share of the couple’s joint federal tax refund. The Department’s use of “innocent spouse” when the IRS uses the term “injured spouse” for the same circumstances is confusing for both taxpayers and practitioners.

Not only are the terms confusing, the process for requesting injured spouse relief for offsets applied to state agency debts is likewise confusing. Indiana Code § 6-8.1-9.5-5 requires the claimant agency to send written notice to the debtor of its intent to offset the tax refund and the basis of the debt. The Code does not require the agency to provide notice to the non-liable spouse or require the agency to explain the process for contesting the offset. Furthermore, the Department does not publicize the procedure for liable and non-liable spouses to contest offsets to state agencies. Indiana Code § 6-8.1-9.5-6 states that a debtor must mail a written contest to the claimant agency within 30 days. However, 45 Indiana Admin. Code § 15-10-1 requires the co-refundee who is not the debtor (in other words, the injured spouse) to file a defense with **the Department**, not the claimant agency, within 30 days. 45 Indiana Admin. Code § 15-10-1 further states a defense “shall constitute any reasonable evidence which establishes that the co-refundee is not a debtor to the claimant agency.” The statutory and regulatory requirements for taxpayers to contact the claimant agency or the Department confuses taxpayers and practitioners, especially when the procedure is not well publicized.

The Department likewise participates in the federal Treasury Offset Program (“TOP”), as outlined in Indiana Code § 6-8.1-9.7. Through this program, the Department can offset Indiana tax refunds for debts that Hoosiers owe to the federal government and other states. Like the offset provision for

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<sup>59</sup> IRS Form 8379, Injured Spouse Allocation, <https://www.irs.gov/pub/irs-pdf/f8379.pdf>.



debts to Indiana state agencies, the TOP allows for relief for joint tax refunds that will be offset through the program. If a joint refund is at issue, “[Indiana] **may not** withhold or pay to the federal official the part of the income tax refund attributable to the individual not owing the debt.”<sup>60</sup> The Department must notify the taxpayers of a proposed TOP offset and allow them 60 days to notify the Department in writing that some part of the refund is attributable to a non-liable individual. Otherwise, the Department may consider the entire refund to be attributable to the debtor.

The Department, in neither its written materials nor its website, provides guidance to Hoosiers on injured spouse relief for the state agency offset program under Indiana Code § 6-8.1-9.5 or the TOP under § 6-8.1-9.7. In fact, experienced tax practitioners are unaware of their existence or how to request relief for their clients.

Moreover, some taxpayers understand, prior to filing a joint tax return, that their refund may be subject to a third-party offset. Currently, the Department does not provide an opportunity for the taxpayers to highlight this issue on the tax return; instead, they must address it through post-filing correspondence with the Department (if at all).

**Recommendations:**

- (1) Explain and publicize the Department’s definitions of “injured spouse” and “innocent spouse” and the differences from the IRS definitions;
- (2) Develop injured spouse guidance and forms that will allow injured spouses to not be affected by current and former spouse’s liabilities;
- (3) Provide a form to allow injured spouses to request injured spouse relief when filing their tax returns, similar to the IRS process; and
- (4) Publicize the availability of injured spouse relief, including relevant procedures for taxpayers to avail themselves of this relief for state tax debts, other state agencies, and the Treasury Offset Program.

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<sup>60</sup> Ind. Code § 6-8.1-9.7-9(2).

### **Issue #9: Sheriff Tax Warrant Notices**

After a state tax assessment, the Department sends a demand for payment (AR-40) to the taxpayer's last known address.<sup>61</sup> If the taxpayer does not pay or show reasonable cause for not paying within 20 days from the demand notice (AR-40), the Department may issue a tax warrant.<sup>62</sup> Once the Department issues the tax warrant, the Department may send the tax warrant to the sheriff of any county where the taxpayer resides or owns property and direct the sheriff to file the tax warrant with the circuit court clerk and attempt to collect the tax.<sup>63</sup> The Indiana Code is clear that the Department, not the county sheriffs, issues the tax warrant, and sends the tax warrant to the sheriffs.

In practice, once the county sheriffs receive and file the tax warrants, they deliver notices to the taxpayers, which advise the taxpayer that the tax warrant has been filed. Because the Department has no obligation under the Indiana Code to notify taxpayers of the tax warrant's filing, this is the first notice taxpayers receive that a tax warrant has been filed against them. The language and content of the tax warrant notices vary greatly by county. Many notices do not explicitly state that this notice of a tax warrant is not an arrest warrant, as exemplified in Exhibit J-1. Most notices refer to the sheriff's authority to seize and levy property, as shown in Exhibit J-2. Some sheriffs order the taxpayer to appear for a hearing. Sheriff tax warrant notices appear as if the tax warrant is issued by the sheriff, not the Indiana Department of Revenue.

Understandably, many taxpayers who receive notices from their county sheriff that say "warrant," "seizure," or "hearing" are intimidated, frightened, and confused. These taxpayers often ask us whether they are being investigated for committing a crime; whether they are subject to arrest; and what will happen if they cannot afford to pay the tax debt. When taxpayers do engage with the sheriff's offices, taxpayers often find that the sheriff demands full payment or otherwise offers only unaffordable payment options.

To diminish this confusion, the Department could recommend a standardized notice for sheriffs to use to notify taxpayers of tax warrants and the sheriff tax collection process. The tax warrants could clearly explain what a tax warrant is, why the sheriff is collecting the tax warrant, and the ramifications if the tax debt is not paid. The tax warrant could refer the taxpayer to collection alternatives and resources to assist the taxpayer with resolving the tax debt. These alternatives may result in more taxpayers coming forward to resolve their tax debts rather than running scared.

#### **Recommendations:**

- (1)** Develop a proposed standardized tax warrant notice for county sheriffs;
- (2)** Alternatively, require sheriffs' tax warrant notices to include (1) disclaimer that a tax warrant is not a warrant for arrest and (2) disclaimer that the Indiana Department of Revenue issues the tax warrant and sends it to the sheriff for collection purposes for 120 days.

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<sup>61</sup> Ind. Code § 6-8.1-8-2(a).

<sup>62</sup> Ind. Code § 6-8.1-8-2(b).

<sup>63</sup> Ind. Code § 6-8.1-8-2(c)-(l).

## **Appendix**

- A. AR-80; Notice of Proposed Assessment
- B. AR-40; Demand Notice for Payment
- C. “Math Error” Adjustment Letter & Payment Filing Coupon
- D. FS-OIC
- E. Sample Compromise Payment Agreement Letter
- F. APRA Request
- G. Department Vehicle Title Lien Notice
- H. BMV Vehicle Title Lien Notice
- I. Form IN-40SP; Innocent Spouse Allocation Worksheet
- J-1. Marion County Sheriff’s Notice
- J-2: Orange County Sheriff’s Notice

AR-80  
SF 43530 (R4 / 11-17)

**PROPOSED ASSESSMENT**  
INDIANA DEPARTMENT OF REVENUE

REFER TO THIS NUMBER ON ANY CONTACT WITH THE DEPARTMENT →

Liability Number: 2016-	[REDACTED]
Notice Number:	[REDACTED]
Date Issued:	09/03/2019

\*COPY\*



ELKHART, IN 46517-8769

Taxpayer TID: [REDACTED] - 000  
Form Number: IT-40  
DLN: [REDACTED]  
Account ID: [REDACTED]  
Liability Period: December 31, 2016  
Tax Type: Individual Income

**IMMEDIATE ACTION REQUIRED:** A review of your Indiana Individual Income tax for the tax period ending December 31, 2016 shows you may owe \$ 279.99, including penalty and interest. **YOU MUST TAKE ACTION IMMEDIATELY TO RESOLVE THIS DEBT.** You must pay the amount owed or protest this tax assessment in writing within 60 days (by November 4, 2019). If you fail to do so, this tax debt will continue to accrue interest and could convert into a tax warrant for collection action. For more information on protesting the tax assessment, visit [www.in.gov/dor/5691.htm](http://www.in.gov/dor/5691.htm). To make a payment arrangement or pay your tax bill in full, please visit [www.intaxpay.in.gov](http://www.intaxpay.in.gov) or call (317) 232-2240. **If you are in Bankruptcy, this notice is for your information only, no collection actions will occur.** Thank you for your immediate attention to this matter. **\*\*\*SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES.\*\*\***

**EXPLANATION OF TAX DUE FOR PERIOD ENDING December 31, 2016**

Original Tax (Individual Income)	\$	369.00
Credits	\$	959.00
Penalty	\$	23.80
Interest - Daily Amount \$0.03	\$	18.19
Subtotal	\$	-548.01
Refunds	\$	828.00
Amount you owe - Due Date: November 4, 2019	\$	279.99

Please place your **CASE NUMBER** [REDACTED] on your check made payable to Indiana Department of Revenue and mail with the form provided below:



Taxpayer TID: [REDACTED] - 000  
Liability Number: 2016-[REDACTED]  
Notice Number: [REDACTED]

AMOUNT PAID	\$
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Due Date: November 4, 2019
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Indiana Dept. of Revenue  
PO Box 1028  
Indianapolis, IN 46206-1028

AMOUNT YOU OWE: 279.99



Continued from previous page.

Notice Number: [REDACTED]

Issued 09/03/2019  
[REDACTED]

EXPLANATION OF TAX DUE FOR : December 31, 2016

The Indiana Department of Revenue has identified a discrepancy amongst information you submitted for your federal and state tax returns. One or both of the categories has been identified as the reason for the discrepancy:

1. The Federal Adjusted Gross Income amount compared to the amount indicated on line 1 of the Indiana state return: and/or
2. The amount of Exemptions (and/or) the amount of Dependents reported on your federal return in comparison to the amount reported on your Indiana state return.

\* Please note that if you were a full year resident of Indiana, the Federal Adjusted Gross Income amount must match the amount on line 1 of the Indiana state return.

If you were a part year resident in another state, please submit a copy of the return filed with the other state to verify where the additional income was reported.

If you disagree with this assessment, you can provide a copy of the Record of Account available at [www.irs.gov/individuals/get-transcript](http://www.irs.gov/individuals/get-transcript) to the address indicated below, or fax to 317-232-1021.

To pay this bill in full or determine if you are eligible to make payment arrangements online, visit [www.intaxpay.in.gov](http://www.intaxpay.in.gov) or please call 317-232-2165. Our office hours are 8:00 a.m. – 4:30 p.m. Eastern Standard Time.

For other questions regarding this notice, please call 317-232-2240 between the hours of 8:00 a.m. – 4:30 p.m. Eastern Standard Time Monday – Friday, and we will be happy to assist you.

You may also send written inquiries to:

DOR Customer Service Department

P.O. Box 1028

Indianapolis, IN 46206-1028

If you have any questions about **WHY** this tax is due, you may call between 8:00 AM and 4:30 PM Monday through Friday Eastern Standard Time or write to:

CUSTOMER SERVICE

PO BOX 1028

INDIANAPOLIS, IN 46206-1028

(317)232-2240

AR-40  
SF 43534 (R4 / 11-17)

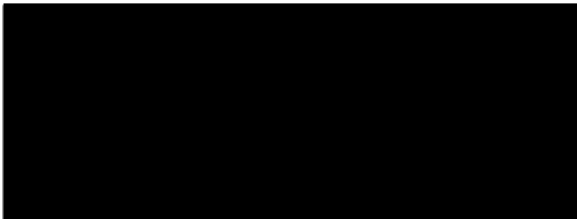
**DEMAND NOTICE FOR PAYMENT**

**INDIANA DEPARTMENT OF REVENUE**

YOU MUST RESPOND TO THIS NOTICE WITHIN TWENTY(20) DAYS FROM THE DATE THIS NOTICE WAS ISSUED. IF YOU FAIL TO RESPOND WITHIN THIS TWENTY(20) DAY PERIOD A TAX WARRANT (THIS IS NOT AN ARREST WARRANT) WILL BE ISSUED AS EARLY AS December 30, 2019 PURSUANT TO INDIANA CODE 6-8.1-8-2(b).

REFER TO THIS NUMBER ON ANY CONTACT WITH THE DEPARTMENT

000115



Liability Number:	[REDACTED]
Notice Number:	[REDACTED]
Date Issued:	12/10/2019

Taxpayer TID: [REDACTED]000  
Form Number: IT-40  
DLN: [REDACTED]  
Account ID: [REDACTED]  
Liability Period: December 31, 2017  
Tax Type: Individual Income



**IMMEDIATE ACTION REQUIRED:** You must pay the amount owed no later than December 30, 2019 or show reasonable cause with supporting documentation for not paying. Failure to do so will convert this notice to a tax warrant and be referred for immediate collection action, which can include wage garnishment, levying of bank account, or auctioning of personal property pursuant to Indiana Code 6-8.1-8-3, -4, and -8. **To prevent the issuance of a tax warrant, visit [WWW.INTAXPAY.IN.GOV](http://WWW.INTAXPAY.IN.GOV) to make online payment arrangements.** To learn more about DOR's collection process, visit [www.in.gov/dor/3959.htm](http://www.in.gov/dor/3959.htm). **If you are in Bankruptcy, this notice is informational only, no collection actions will occur. \*\*\*SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES.\*\*\***

**EXPLANATION OF TAX DUE FOR PERIOD ENDING December 31, 2017**

Tax Balance (Individual Income)	\$	85.00
Penalty	\$	8.50
Interest - Daily Amount \$0.01	\$	3.83
Amount you owe - Due Date: December 30, 2019	\$	97.33

Please place your **CASE NUMBER** [REDACTED] on your check made payable to Indiana Department of Revenue and mail with the form provided below:



Taxpayer TID: [REDACTED]  
Liability Number: [REDACTED]  
Notice Number: [REDACTED]

AMOUNT PAID \$

Due Date: December 30, 2019

Indiana Department of Revenue  
PO Box 0595  
Indianapolis, IN 46206-0595

AMOUNT YOU OWE:

97.33



Continued from previous page

Issued 12/10/2019

Notice Number: [REDACTED]

EXPLANATION OF TAX DUE FOR : December 31, 2017 [REDACTED]

YOUR TAX RETURN WAS RECEIVED WITHOUT A REMITTANCE. PLEASE REMIT THE AMOUNT SHOWN.

This is the final notice you will receive from the Department of Revenue before it goes to other agencies for collection purposes. These processes will include additional collection fees and can impose a lien on personal property.

If you have any questions about **PAYMENT** of this billing, you may call between 8:00 AM and 4:30 PM Monday through Friday Eastern Standard Time or write to:

Indiana Department of Revenue  
CUSTOMER SERVICE  
PO Box 0595  
Indianapolis, IN 46206-0595  
(317)232-2165

**Important Taxpayer Notification**

Dear Customer:

The Indiana Department of Revenue (DOR) received your tax return and has discovered inconsistencies during processing.

Located on the back of this letter is a line-by-line breakdown of your return. The left column shows the figures as reported on the return. The right column reflects the figures we have calculated or adjusted. These changes may alter your refund amount or result in an additional amount owed.

If you agree with the proposed changes, you either will receive a refund in the adjusted amount or a Notice of Proposed Assessment that will reflect the additional tax. That notice may include a penalty of 10% and interest that accumulates daily. Payments must be received prior to the return's due date to avoid penalty or interest from being assessed. If you wish to make a payment at this time, use the voucher on the back of this notification to guarantee your account is properly credited. If, after 20 days from the date of this letter, you do not submit the full amount due, a notice will be issued to you.

If you believe this notification is incorrect, you may submit an explanation along with any supporting documentation within 20 days from the date of this letter to DOR's Indianapolis office at the address located at the bottom of this letter. Once your documentation is received, please allow up to 8 weeks for DOR to research and review. If you receive a Notice of Proposed Assessment or an adjusted refund, you should contact DOR to ensure any documentation that you sent was received.

If you disagree with DOR's decision to reduce or deny a refund, you have 60 days to file a written protest with DOR. For more information, visit DOR's website at [www.dor.in.gov/5691.htm](http://www.dor.in.gov/5691.htm) or select "Legal Resources" at [dor.in.gov](http://dor.in.gov).

If this notification indicates you are due to receive a refund, expect to obtain the refund amount within one week's time. If DOR's review of the additional information you provided results in further adjustments, you will be issued a second refund for the difference or a Notice of Proposed Assessment.

Thank you for your cooperation. If you have any questions, you may contact DOR Customer Service at 317-232-2240 Monday through Friday, 8 a.m. - 4:30 p.m. EST, or visit a District Office near you. Locations are listed below or can be found at [www.in.gov/dor/3390.htm](http://www.in.gov/dor/3390.htm).

All addresses are subject to change. (Check your local listings)

Indianapolis Main Office Indiana  
Government Center North  
100 N. Senate Ave., Rm N105  
Indianapolis, IN 46204

Columbus District Office  
3520 Two Mile House Rd.  
Columbus, IN 47201

Kokomo District Office  
124 W. Superior St.  
Kokomo, IN 46901

Muncie District Office  
3640 N. Briarwood Ln., Ste. 5  
Muncie, IN 47304

Bloomington District Office  
1531 South Curry Pike, Suite 400  
Bloomington, IN 47403

Evansville District Office  
500 S. Green River Rd.  
Goodwill Building, Ste. 202  
Evansville, IN 47715

Lafayette District Office  
100 Executive Dr., Ste. B  
Lafayette, IN 47905

South Bend District Office  
105 E. Jefferson Blvd., Ste. 3  
South Bend, IN 46601

Clarksville District Office  
1200 Madison St., Ste. E  
Clarksville, IN 47131

Fort Wayne District Office  
7230 Engle Road, Suite 314  
Ft. Wayne, IN 46804

Merrillville District Office  
1411 E. 85<sup>th</sup> Ave.  
Merrillville, IN 46410

Terre Haute District Office  
30 N. 8<sup>th</sup> St., 3<sup>rd</sup> Floor  
Terre Haute, IN 47807



Sequence No. 79

Payment Filing Coupon  
Indiana Department of Revenue  
2019 IT-40 Tax Return Line-by-line Change or Changes

TID: [REDACTED]  
Original ID: [REDACTED]  
Print Date: 03/25/2020

**Exhibit C**

Line #	Line Description	Reported	Corrected	Reason
1	Federal AGI	\$ 34,177.00	\$ 34,177.00	
2	Tot Add-Back (Sch1)	\$ .00	\$ .00	
3	Total Indiana Income	\$ 34,177.00	\$ 34,177.00	
4	Tot Deductions (Sch2)	\$ .00	\$ .00	
5	Indiana A.G.I.	\$ 34,177.00	\$ 34,177.00	
6	Tot Exemptions (Sch3)	\$ 3,500.00	\$ 3,500.00	
7	State Tax Income	\$ 30,677.00	\$ 30,677.00	
8	State AGI Tax	\$ 991.00	\$ 991.00	
9	County Income Tax	\$ 537.00	\$ 537.00	
10	Tot Other Tax (Sch4)	\$ .00	\$ .00	
11	Total Tax	\$ 1,528.00	\$ 1,528.00	
12	Tot Credits (Sch5)	\$ 1,653.00	\$ .00	Adjusted to agree with my records
13	Offset Credits (Sch6)	\$ .00	\$ .00	
14	Total IN Credits	\$ 1,653.00	\$ .00	error in addition of amounts
15	Total Refund Amt	\$ .00	\$ .00	
17	Donations	\$ .00	\$ .00	
19a	1st Qtr Est Nxt Tax Yr	\$ .00	\$ .00	
20	Est Tax Undo Pen	\$ .00	\$ .00	
21	Total Refund Due	\$ 125.00	\$ .00	
24	Penalty	\$ .00	\$ .00	
25	Interest	\$ .00	\$ .00	
26	Tot Amt You Owe	\$ .00	\$ 1,528.00	

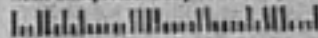
Attach Here)

PFC 0807  
TID: [REDACTED]  
Acct ID: [REDACTED]  
Period End: 12/31/2019  
Date Due: 04/15/2020  
Tax Type: IND

000079

Your daily interest rate will be calculated at .00 per day.

Mail completed Coupons and Payments to:



Indiana Department of Revenue  
P.O. Box 1674  
Indianapolis, IN 46206-1674

Cpn Interest:	\$ .00
Ccn Penalty:	\$ .00

Amount Due:

1,528.00



**Financial Statement for Offer in Compromise**

Please refer to pages 5 to 6 of this document to determine your eligibility and the requirements for this program. **Your failure to follow all instructions provided and submit all required documentation will result in your application being rejected.** You will be notified within 15 to 20 working days, or less, if you have been accepted into or rejected from the Offer in Compromise program.

**Personal Information**

Name	Spouse's Name
Social Security Number	Spouse's Social Security Number
Address	Address
City, State, ZIP	City, State, ZIP
Home Telephone	Home Telephone
Cell Phone	Cell Phone
Email Address	Email Address
Date of Birth	Date of Birth

**Dependents**  
Please list the name, age, and relationship of all dependents who live with you.

Name	Age	Relationship

**Employment Information**

Your Employer's Name	Spouse's Employer's Name
Years Employed	Years Employed
Address	Address
City, State, ZIP	City, State, ZIP
Telephone	Telephone

**Bank Account(s) Information**

Please include all checking, savings, credit union accounts, Certificates of Deposit, and safety deposit boxes held by you, your spouse, and dependents.

Type of Account	Financial Institution Name	Account Number	Current Balance

**Schedule 1 Monthly Household Income**

Your net pay .....	\$ _____
Your spouse's net pay .....	\$ _____
Rents paid <u>to</u> you (list property rent is being derived from) .....	\$ _____
Pensions .....	\$ _____
Social Security benefits .....	\$ _____
Social Security disability .....	\$ _____
Profit from your business ( <b>must attach Federal Schedule C, E, F or any other pertinent schedules</b> ) .....	\$ _____
Commissions .....	\$ _____
Alimony/Child support received .....	\$ _____
Welfare/Food Stamp assistance .....	\$ _____
Other income (please list source) .....	\$ _____
<b>Total Monthly Income</b> .....	\$ _____

**Schedule 2 Monthly Household Expenses**

Rent/Mortgage .....	\$ _____
Alimony/Child support paid .....	\$ _____
Groceries .....	\$ _____
Electricity .....	\$ _____
Heat (oil, gas, etc.) .....	\$ _____
Water/Sewer .....	\$ _____
Telephone .....	\$ _____
Transportation (gasoline, bus fare, etc.) .....	\$ _____
Medical expenses (physician's bills, medication <b>not</b> paid by insurance) .....	\$ _____
Insurance cost -	
Automobile .....	\$ _____
Health/Hospitalization .....	\$ _____
Life .....	\$ _____
Homeowner's/Renter's .....	\$ _____
Total cost of insurance (auto, health, life, home, rental, etc.) .....	\$ _____
Total cost of credit card payments (list card information on Schedule 3) .....	\$ _____
Total loan payments (list loan information on schedule 4) .....	\$ _____
Other expenses ( <b>please itemize and explain below</b> ) .....	\$ _____
<b>Total Monthly Expenses</b> .....	\$ _____

**Other Expenses**  
Itemized Monthly Expenses and Explanations (attach additional sheets as needed)

**Schedule 3 Credit Card Information**  
 List all credit card, lines of credit, and check overdraft protection held by you, your spouse, and/or your dependents (attach additional sheet as needed)

Name	Credit Limit	Total Balance Due	Monthly Payment

**Schedule 4 Loan Information**  
 List all loans that are currently outstanding

Name of Financial Institution	Monthly Payment	Total Balance Due

**Schedule 5 Motor Vehicle Information**

Year	Make/Model	Financed Through	Current Value

**Schedule 6 Real Estate Information**

Address	Financed Through	Current Value

**Other assets**  
 List other items that you, your spouse, and/or your dependents own or are currently buying (i.e. stocks, bonds, boats, furniture, jewelry, mechanic's tools, RV, etc.)


**Support Assistance (if applicable)**

If you are currently living with another individual, family or friend, and are paying no monthly expenses, that individual must read and understand the statement below and then sign and date this form.

Under penalties of perjury, I declare that the named individual(s) on this Financial Statement are currently residing with me and pay no monthly living expenses.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Additional Information**

**Offer in Compromise Information**

List your offer in compromise and the payment thereof.

Compromise Amount: \$ \_\_\_\_\_ Paid in full within: \_\_\_\_\_ days

Down Payment: \$ \_\_\_\_\_ Monthly Payment: \$ \_\_\_\_\_

Please explain how you determined these figures:

**Before submitting your application, please review the following final checklist:**

- Completed the Form FS-OIC in its entirety.
- Included a Letter of Circumstance.
- Attached all of the required supporting documentation (including proof of income and expenses).

Under penalties of perjury, I declare that this statement of assets and liabilities and all other information included in this document or attached thereto are true and correct to the best of my knowledge and belief. I authorize the Indiana Department of Revenue to verify any and all facts included in this document.

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Spouse's Signature

\_\_\_\_\_  
Date

## Offer in Compromise

### What Is an Offer in Compromise?

An Offer in Compromise (offer) is an agreement between you (the taxpayer) and the Indiana Department of Revenue (IDOR) that settles a debt for less than the full amount due to date. To be considered for a compromise, you generally must make a reasonable offer based on your total debt and your earnings potential. Submitting an offer does not ensure that the IDOR will accept it.

Collection activities will continue during the offer evaluation process. This can result in additional interest, fees, damages, and/or costs accruing. In addition, if your offer is accepted and will be paid through a payment plan agreement, you must make a 20% down payment. The IDOR keeps any proceeds from a levy served prior to your offer's acceptance.

If the IDOR accepts your offer, you will be required to sign a legal and binding Offer in Compromise Agreement. If all parties have agreed to a payment plan agreement for the compromised amount, the IDOR will periodically review your case and you will be required to update all information previously submitted to this office.

**Please note:** You **must** file all future tax returns timely and pay all future tax due timely. If you are issued a new tax liability or fail to file a timely return, the following will occur:

- Your Offer in Compromise payment plan agreement will be cancelled.
- Your case will be closed.
- Normal collection activities will resume.

In addition, any penalties, interest, fees, costs, and damages previously waived will be added back to the amount due.

### Who *Might* Qualify for an Offer in Compromise?

- Taxpayers who are facing financial difficulties
- Taxpayers who have a terminal and/or critical illness within the immediate family
- Taxpayers who have experienced personal devastation resulting from a natural disaster or an uncontrollable economic event

### What Is Required to Apply for an Offer in Compromise?

- You must complete an application, Form FS-OIC, and include all required supporting documents (see instructions).
- You must be current with all tax filings for both Individual Income Tax and any Business Taxes if applicable.
- Any bankruptcy filings must have already been discharged or dismissed.

**Please note: Your Offer in Compromise will be rejected if you do not submit all the required forms and supporting documentation with your application.**

### Instructions for Submitting an Offer in Compromise

To submit an Offer in Compromise, do the following:

- Complete the Offer in Compromise, Form FS-OIC, in its entirety.
- Submit **documented supporting evidence** for all income, expenses, and accounts listed on **Form FS-OIC** for the most recent month. If you fail to submit documented evidence with Form FS-OIC, your offer will be automatically rejected. Accepted documents include
  - **Income** – Copies of paystubs, earnings statements, Social Security Administration benefit letters, pension statements, bank statements reflecting direct deposits, etc.

- **Expenses** – Copies of utility statements, credit card or loan billings, medical bills, etc.
  - **Accounts** – Copies of all statements for bank, retirement, and investment accounts.
- Submit a **Letter of Circumstance** explaining in detail what prevented you from paying the taxes when they were due and what is currently preventing you from entering into a payment plan agreement with the IDOR. In addition, include any information that is pertinent to your requested offer, as well as the source of the compromise funds.
  - Include a **medical statement** from your physician detailing the diagnosis and prognosis of your and/or your family member's medical conditions(s), if applicable.
  - Include a **Bankruptcy Discharge or Dismissal Notice**, if applicable.
  - If you are requesting a payment plan agreement, you must also request a specific down payment and monthly payment amount.

**Note:** The **only** expense items that the bank statements (debits) can be used for as supporting documentation are food and transportation (gas), and must be identified and clearly marked on the statement. With the exception of food and transportation (gas), copies of **actual billing statement must be provided**.

#### **What the Offer in Compromise *Cannot* Do for You**

- **Cannot** cancel or discharge your outstanding liabilities with no payment.
- **Cannot** leave your liabilities on hold indefinitely.
- **Cannot** reinstate a revoked Registered Retail Merchant Certificate.
- **Cannot** release a professional license, permit, or tax lien until the approved Offer in Compromise amount due is paid in full.
- **Cannot** intervene when a legal action has been filed, such as a wage garnishment, bank account levy, collection suit, or court-ordered appearance.

#### **What the Offer in Compromise *Can* Do for You**

- **Can** establish a settlement for a lesser amount with a compromise agreement that is signed by all parties involved.
- **Can** accept a lump sum payment to satisfy your liabilities in full.
- **Can** accept a short-term payment plan agreement with the required 20% down payment to satisfy your liabilities in full.

#### **Before submitting your application, please review the following final checklist:**

- Completed the Form FS-OIC in its entirety.
- Included a Letter of Circumstance.
- Attached all of the required supporting documentation (proof of income and expenses).  
DO NOT send originals; documents are not returned.

**If you have any questions, you can contact us at (317) 232-4692 or by email at [taxadvocate@dor.in.gov](mailto:taxadvocate@dor.in.gov).**

**Please allow 15 to 20 days for processing.**

Please mail your completed form and required documentation to:

Office of the Taxpayer Advocate  
Indiana Department of Revenue  
P.O. Box 6155  
Indianapolis, IN 46206-6155



# INDIANA DEPARTMENT OF REVENUE

Eric J. Holcomb, Governor  
Adam J. Krupp, Commissioner

Exhibit E

Indiana Government Center  
100 N. Senate Ave  
Indianapolis, IN 46204-2253

Print Date: 12/31/2019

Taxpayer ID: [REDACTED]

Federal ID: [REDACTED]

RPS Case ID: [REDACTED]

## COMPROMISE PAYMENT AGREEMENT

This compromise payment agreement is made and entered into by and between [REDACTED] (hereinafter referred to as "Taxpayer"), whose address is [REDACTED] and the Indiana Department of Revenue, whose principle address is P.O. Box 6155, Indianapolis, IN 46206-6155. This agreement is made in consideration of the Taxpayer's special circumstances, is not the normal policy of the Indiana Department of Revenue and will not be further negotiated. If the Taxpayer cannot meet the terms of this agreement, the Department will have no alternative but to cancel this arrangement and resume the normal collection process. If the Department accepts an Offer in Compromise, the Taxpayer should be aware that they are waiving their rights to any court action or claim of refund on the liabilities included in the settlement.

## RECITAL

- 1) On 12/31/2019, the Taxpayer owed the Indiana Department of Revenue \$1,057.73 including penalty and interest. The Taxpayer was billed for these Indiana state taxes including penalty and interest. The Taxpayer acknowledges that they failed to file and or pay these Indiana state taxes.
- 2) The Taxpayer has advised the Indiana Department of Revenue that they are in a financially distressed position which will not permit them to file and pay in full said taxes, penalties and interest which accrues at \$.06 per day.
- 3) The Taxpayer has offered to pay the Indiana Department of Revenue \$500.00 to settle the outstanding taxes issued.
- 4) The Indiana Department of Revenue, Advocate Specialist, [REDACTED] has agreed to research the Taxpayer's position and present the findings to the Office of the Taxpayer Advocate for a final determination.

## AGREEMENT

- 1) Based on the Taxpayer's documented information provided, which includes a financial statement and a letter of circumstances, the Indiana Department of Revenue will accept \$500.00 as full payment of the liabilities, with the contingency that **all future taxes must and will be filed and paid timely.**
- 2) The Taxpayer agrees that this settlement may be rescinded if any statements as to ownership of assets made to the Department are false, and that the Department may retain the sum received and apply it towards satisfaction of the original obligation. In such an event, the Taxpayer agrees to waive the right to plead any statute of limitations as a defense to an action on the original obligation.
- 3) The Taxpayer will pay \$500.00. These payment(s) will be made in the manner set forth herein. This Compromise Agreement includes the following liabilities:



Tax Type	Period Ending	Liability number	Warrant number
Individual Income			
Withholding			
Withholding			
Withholding			
Withholding			

- 4) If the Taxpayer fails to meet any of the terms of this agreement, the Department may, at its option, cancel this compromise agreement as well as revoke professional licenses, permits and retail merchant's certificate(s) held by the Taxpayer as provided for by law and declare the entire unpaid balance of this contract immediately due and payable.
- 5) The full payment in the sum of \$500.00 will be made in guaranteed funds. This payment must be postmarked on or before 02/15/2020. Any Indiana state tax refund that becomes due, either for individual or business purposes, will be applied to the total outstanding tax delinquency and will not be considered a payment towards the settlement balance. If the Indiana Department of Revenue does not offset the refund but issues it directly to the taxpayer, then the taxpayer must immediately remit the refund back to the Office of the Taxpayer Advocate to be applied as previously stated.
- 6) In the event the Taxpayer does not timely make full payment or if any information provided to the Indiana Department of Revenue proves untrue or inaccurate, a default of this compromise agreement shall exist, the compromise agreement shall be forfeited and all penalties, interest and warrants will be reinstated. In addition, if you file bankruptcy during the time period of this agreement, the compromise will be considered null and void.
- 7) This compromise agreement embodies the entire compromise agreement of the parties respecting the delinquent tax, penalties and interest for the tax returns for the periods previously listed.
- 8) The Indiana Department of Revenue reserves the right to collect a percentage of any monies gained by the Taxpayer by lottery winnings, inheritance or any other unexpected substantial monetary gain within a three year period from the date of the completion of this hardship settlement.
- 9) There are no promises, terms, conditions or obligations other than those contained in this agreement.
- 10) The Department and the Taxpayer shall maintain complete confidentiality of the Compromise Agreement and shall not disclose any of the terms and conditions set forth herein with any person as required by exchange of information agreements with other states. Nothing in this agreement shall be construed to conflict with any federal or state statutes.



DATE: 12-31-19 Tammy Jones  
 Tammy Jones, Taxpayer Advocate



NOTRE DAME CLINICAL LAW CENTER  
725 Howard Street  
South Bend, Indiana 46617-1529 USA

P 574-631-7795  
F 574-631-6725

June 26, 2020

Indiana Department of Revenue  
100 N. Senate Avenue  
Indianapolis, IN 46204

**Sent Electronically to [PublicRecordsRequest@dor.in.gov](mailto:PublicRecordsRequest@dor.in.gov)**

To Whom it Concerns,

Under the Access to Public Records Act (APRA), Ind. Code § 5-14-3-3(a), I request the following records from the Department of Revenue:

1. All written policies for the consideration of Offers in Compromise, as contemplated under Ind. Code § 6-8.1-3-17(a).
2. All written policies for the consideration of Economic Hardship requests, as contemplated under the Department's published Form FS-H and other Department policy; and
3. All written policies for the consideration of Hardship Payment Plans, as contemplated under the Department's published Form FS-H and other Department policy.

For all of the above requests, please include all information relevant to these policies, including but not limited to the following:

- A. How the Department considers a taxpayer's financial condition in determining whether to accept or deny a taxpayer's proposed Offer in Compromise;
- B. How the Department considers the difference between the amount of the proposed offer with the amount of the outstanding liability in determining whether to accept or deny a taxpayer's proposed Offer in Compromise;
- C. Whether the Department has a policy of denying Offers in Compromise where the taxpayer's financial condition demonstrates they do not have sufficient assets or income to pay for the proposed offer; and
- D. Any instructions to Department employees on how to carry out the policies identified above.

Please direct your response to me at the contact information below. I will accept a response in any convenient medium, including paper or other electronic medium.

Mail: Patrick W. Thomas  
725 Howard Street  
South Bend, IN 46617

Email: [pthomas3@nd.edu](mailto:pthomas3@nd.edu)

Should you have any questions regarding this request, please contact me at (574) 631-9149 or [pthomas3@nd.edu](mailto:pthomas3@nd.edu).

Sincerely,

**/s/ Patrick W. Thomas**

Patrick W. Thomas  
Associate Clinical Professor  
Notre Dame Law School



# INDIANA DEPARTMENT OF REVENUE

Eric J. Holcomb, Governor  
Adam J. Krupp, Commissioner

Indiana Government Center  
100 N. Senate Ave, Rm 248  
Indianapolis, IN 46204-2253

000112



TID:



Corr. Id:

Date:

08/28/2018

## NOTICE OF TITLE LIEN

Dear Customer:

According to Indiana code 6-8.1-3-16, the Indiana Department of Revenue (DOR) has placed a lien on the title of the vehicle described below. This title is being retained by DOR. This action is a result of unpaid tax liabilities owed to DOR.

Vehicle ID Number:	
Vehicle Make:	CHEV
Vehicle Type:	IMP
Vehicle Year:	2009

The lien will be released and the title forwarded to you upon full payment of all outstanding liabilities.

To obtain further information regarding taxes due, you may call (317) 232-5977 Monday through Friday 8 a.m. – 4:30 p.m. EST.

Sincerely,

Indiana Department of Revenue

01000010000100011200112



# STATE OF INDIANA

Eric J. Holcomb, Governor

Peter L. Lacy, Commissioner  
BUREAU OF MOTOR VEHICLES  
100 North Senate Avenue  
Indianapolis, Indiana 46204

*Handwritten notes:*  
7/11/14  
FBI

08/23/2018

Under the provisions of IC 6-8.1-3-16, a lien will be recorded against your motor vehicle or other conveyance. Until this lien is removed, the Bureau of Motor Vehicles may issue a Title, but the title will be forwarded to the lien holder.

The only way this lien may be removed is by making full payment of any delinquent Indiana State taxes owed.

**Any questions regarding this situation are to be directed to the Indiana Department of Revenue, Collection Division at 317-232-5977.**

*Handwritten scribbles and marks at the bottom of the page.*



Indiana Department of Revenue  
**Indiana Innocent Spouse  
 Allocation Worksheet**

Year of Claim \_\_\_\_\_

**Are You an Innocent Spouse?**

You may be determined to be an innocent spouse if:

- The Internal Revenue Service determines that you are an innocent spouse for the same tax year; or
- Income was not reported on your federal and state returns, and the innocent spouse was unaware or had no access or use of that income; or
- Income was earned and the innocent spouse had no compensation from this income; and, in the case of returns not filed with Indiana when the innocent spouse thought all taxes had been filed and paid; or
- All of the income reported was the spouse's income and you filed and paid your Indiana income tax that was due.

Complete this form to determine the applicable breakdown of income, exemptions and credits of the responsible taxpayer and the innocent spouse. The responsible taxpayer is the taxpayer that is not filing for innocent spouse consideration.

**Required Attachments**

You must attach a copy of the following information to this worksheet:

1. Your federal income tax return (Form 1040 or 1040A) for the year of the claim, **and**
2. All W-2 forms of both spouses and any 1099 forms showing state/county income tax withheld.
3. A detailed letter stating why you feel you are an innocent spouse.
4. A copy of the Indiana Return for the year(s) applicable and all schedules.
5. Copies of the approved Federal Innocent Spouse letter (if applicable).

**Note:** Your claim cannot be processed if you do not submit this required information.

**Part 1 - Information About the Joint Tax Return for Which This Claim is Filed**

1. Enter the following information exactly as it is shown on the tax return for which you are filing this claim. The spouse's name and social security number shown first on that tax return must also be shown first below.

First name, initial, and last name shown first on the return	Social security number shown first			Check here if Innocent Spouse
				<input type="checkbox"/>
First name, initial, and last name shown second on the return	Social security number shown second			Check here if Innocent Spouse
				<input type="checkbox"/>

2. Enter Your current home address.

Street Address	City	State	ZIP Code

3. Is the address on your joint return different from the address shown above?  Yes  No

**Part 2 - Allocation Between Spouses of Items on the Joint Indiana Individual Income Tax Return**

	(a) Amount shown on joint federal and Indiana tax returns		(b) Amount allocated to innocent spouse		(c) Amount allocated to other spouse	
Allocated Items						
<b>4. Income.</b> Enter the separate income that each spouse earned. Allocate joint income, such as interest earned on a joint bank account, as you determine. Be sure to allocate all income shown on the joint tax return. a. Wages						
b. All other income. Identify the type and amount:  _____						
<b>5. Adjustments claimed on your federal tax return.</b> Enter each spouse's separate adjustments, such as an IRA deduction. Allocate other adjustments claimed on your federal return as you determine.						
<b>6. Indiana deductions.</b> Enter each spouse's share of deductions, such as renter's deduction, that was claimed on the Indiana tax return. Allocate other adjustments claimed on your Indiana return as you determine.						
<b>7. Number of exemptions.</b> Allocate the exemptions claimed on the joint Indiana return to the spouse who would have claimed them if separate returns had been filed. Enter whole numbers only (for example, you cannot allocate 3 exemptions by giving 1.5 exemptions to each spouse). Show the division of exemptions by type, such as 2 exemptions claimed on Indiana return plus 1 additional exemption for certain dependent child.						
<b>8. Withholding credits.</b> Enter Indiana state and county tax withheld from each spouse's income as shown on the W-2s, 1099-Rs, W-2Gs, etc. Be sure to attach copies of these forms to this worksheet.						
<b>9. Credits.</b> Allocate any child tax credit to the spouse who was allocated the dependent's exemption. Allocate all other Indiana credits based on each spouse's interest.						
<b>10. Payments.</b> Allocate joint estimated tax payments as you determine.						

**Note:** The Indiana Department of Revenue will figure the amount of any refund due the innocent spouse.

# Exhibit I

## Part 3 - Signature Area

Under penalties of perjury, I declare that I have examined this form and any accompanying schedules or statements and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Innocent Spouse's Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Phone Number: \_\_\_\_\_

## Paid Preparer's Use Only

Preparer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Check if self-employed:

Preparer's SSN or PTIN: \_\_\_\_\_

**Keep a copy of this worksheet with your records.**

## Mail your completed claim to:

Indiana Department of Revenue  
Returns Processing and Operations  
P. O. Box 7207  
Indianapolis, IN 46207

Or, Fax it to 317-615-2697.



Kerry E. Forestal  
200 East Washington St. Suite 1122  
Indianapolis, Indiana 46204  
Telephone: (317) 327-2448

xx/xx/xxxx

WHEN REPLYING  
REFER TO # e

Warrant #: e      SSN/ID #: e      Period: e      Type: e

**TOTAL AMOUNT YOU OWE**

You are hereby ~~ORDERED TO APPEAR~~ for final resolution of this matter on 07/08/2019 at 10:00 am in e suite #1122 of the City County Building. This is notification that a warrant has been issued against you e for failure to pay taxes and/or contributions due the State of Indiana. eThis warrant was issued against you on 06/27/2019. e

**\*\*\*SPECIAL NOTE\*\*\***

*Upon receipt of the full amount due to satisfy the warrant, Indiana Law provides for the Sheriff of Marion County to CANCEL YOUR WARRANT and all other action in this matter. Full amount due must be received by the Marion County Sheriff's Department prior o your scheduled appearance date. If you choose to pay the amount due you do not need to appear in person, please refer o the following instructions:*

Please remit the above amount made payable to "Sheriff of Marion County" in a cashiers check, certified check, money order or personal check including name, address, and warrant number. e

Mail to: e

SHERIFF OF MARION COUNTY  
ATTN: TAX SECTION  
SUITE 1122  
200 EAST WASHINGTON STREET  
INDIANAPOLIS, INDIANA 46204 e      e

Mastercard, American Express and Visa charge cards may be used for payments. The card owner may call 1-888-604-7888 to process the payment (Please Refer to Payment Location Code: 4456). A service fee will be charged. You can also visit <https://www.govpaynow.com/gps/user/> to make a payment using e the same location code 4456. e

Any personal check issued in payment of taxes which is returned by your banking institution for any e reason will constitute sufficient action to obtain a warrant for your arrest for deceptive practices and fraud e in accordance with Indiana Criminal Code, IC:35-43-5-5; as amended, and will result in a \$20.00 service fee being charged to you. Should you have any questions regarding this matter, you may contact the e office between 8:00 AM and 4:00 PM (Monday - Friday, excluding government holidays) at (317) e 327-2448.

Respectfully, e



Deputy Chief William E Gigerich



Josh Babcock  
Sheriff

OFFICE OF  
**Sheriff of Orange County**  
**Headquarters**

205 Main Street, Suite 5, Paoli, IN 47454  
**Tax Warrant Information (812) 723-2417 x263**  
**Indiana Dept. of Revenue (317) 232-2165**

**CC Code:**  
**Warrant #:**  
**Tax Type:**  
**Liability Period:**  
**Daily Interest: \$ .01**

**Total Due: \$ as of xx/xx/xxxx based on daily interest rate.**

The State of Indiana and the Orange County Court have issued a tax warrant against you for failure to pay taxes owed to the Indiana Department of Revenue. The liability period is listed above.

As Sheriff, I am charged with the duty of collecting taxes and fees. You must make payment to avoid further action against you.

- If the amount is a business tax, I may exercise options against the business including closing and selling contents to satisfy the business taxes owed.
- If this amount is a personal tax, I may seize and sell property to satisfy the personal taxes.

There are four payment options:

1. You may pay by credit/debit card at INDIANATAXWARRANTS.COM. Use the CC Code and Warrant # located in the upper right part of this letter as your login credentials.
2. You may come to our office and pay by cash, cashier's check, certified check, or money order. We do not accept personal and/or business checks.
3. You may send a cashier's check, certified check, or money order made payable to SHERIFF OF ORANGE COUNTY to the address at the top of this letter within 10 days. Personal and/or business checks are NOT accepted.
4. If you wish to make payment arrangements, contact the Sheriff's Office.

If you have questions concerning your taxes or disagree with the amount owed, contact the Indiana Department of Revenue at (317) 232-2165.

Resolution must be made within fifteen days from Thursday, August 29, 2019.

**THIS IS A DEMAND NOTICE. YOU MUST PAY THIS AMOUNT IMMEDIATELY OR I WILL TAKE FURTHER ACTION.**