



## INSPECTOR GENERAL REPORT

2013-07-0141

December 11, 2013

### DOR ALLEGATION

*Inspector General Staff Attorney Jennifer Cooper, after an investigation by Special Agent Chris R. Read, reports as follows:*

On July 12, 2013, the Office of the Inspector General (“OIG”) received a complaint concerning the Indiana Department of Revenue (“DOR”). The complaint alleged that the DOR wrongfully issued and collected on a levy against a corporation (“Corporation”) located in Illinois. Special Agent Read was assigned to investigate.

The OIG is responsible for addressing fraud, waste, abuse, and wrongdoing by state agencies. IC 4-2-7-2(b).

The complaint stated that the Corporation is incorporated in Illinois, but receives some income through Indiana which requires the filing of an Indiana income tax return with the DOR. The complaint also alleged that Seven Thousand Seven Hundred Nineteen Dollars and 00/100 (\$7,719.00) was withdrawn from the Corporation’s bank account by DOR, for taxes owed in 2011, without permission and without prior communication. The Corporation’s

complaint further stated that the Corporation contested the DOR's determination that the Corporation owed taxes to the State of Indiana through mailed correspondence. After further correspondence between the Corporation and the DOR, the funds collected by DOR were refunded to the Corporation.

According to the complaint, the DOR requested payment for 2012 taxes owed in the amount of Six Thousand Five Hundred Forty-Two Dollars and 86/100 (\$6,542.86). Shortly after submitting a check to the DOR in this amount, the Corporation received a letter from the DOR instructing it to not file withholding tax returns and subsequently received a letter informing it that the \$6,542.86 liability had been cancelled. The complaint also expressed concerns that the DOR was unfairly treating out-of-state taxpayers.

Special Agent Read contacted the Corporation's representative to discuss the allegations made against the DOR. The Corporation's representative reiterated the allegations in the complaint. The representative confirmed that the DOR returned all funds that were collected by or sent to the DOR in error.

DOR representatives informed Special Agent Read that the DOR had been previously working with the Corporation to resolve the liability notices and provided all corresponding documentation. According to the DOR, the issues stemmed from the Corporation filing withholding tax returns when no withholding tax was due. The DOR had closed the Corporation's withholding account in July 2012 after resolving the tax liability from its 2011 tax return. However, according to DOR, the Corporation submitted a new business tax application in November 2012, opening a second withholding account in error.

The DOR sent an estimated billing of \$6,542.86 based on the Corporation's failure to file a 2013 return in accordance with the business tax application filed in 2012. The Corporation then submitted a check to the DOR for this estimated tax liability. The DOR corrected the error and returned the \$6,542.86 to the Corporation along with a letter reminding the Corporation to refrain from filing withholding tax returns when no withholding tax is due.

Special Agent Read determined that the complaint and the information gathered during the course of his investigation did not implicate any ethics rule or criminal statute violations. Although some confusion and miscommunication may have occurred concerning the Corporation's tax status and tax liabilities owed, the issues have been resolved and Special Agent Read did not discover any evidence of misconduct on the part of DOR. Because no wrongdoing was discovered, this investigation is closed.

APPROVED BY

/s/ David O. Thomas, Inspector General