



Annual Public Hearing

MEETING MINUTES

June 19, 2018
INDIANA DEPARTMENT OF REVENUE

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Indiana Department of Revenue

2018 Annual Public Hearing

Minutes Summary

In accordance with the Indiana Taxpayer Bill of Rights, the Indiana Department of Revenue held its Annual Public Hearing in Conference Room C of the Conference Center, Indiana Government Center South, 402 W. Washington St., Indianapolis, Indiana, on June 19, 2018.

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 Adam Krupp
- Chief Operating Officer Bob Grennes
- Chief Financial Officer Edward Vance
- Chief Information Officer Kevin Gulley
- Executive Director of Customer Service Monique Young-Walsh
- Director of Taxpayer Advocate Office Tammy Jones
- External Communications Director Emily Landis

Attendees:

- Ben Smith, Indiana CPA Society
- Brynna Sentel, The Statehouse File
- Dan Carden, NWI Times
- David Saylor, Indiana Legal Services
- Denise Schrock, Borshoff
- Dustin Dubree, DCNA
- Frank DiPetro, Indiana Legal Services
- Karen Ward, Indiana Legal Services
- Mark C. Dutton, Dutton Legal Group
- Monique Mundonca, FLS LTTC
- Patrick Thomas, Notre Dame Tax Clinic
- Phillip Jackson, Indiana CPA Society
- Sarah DeMoss, Premiere Credit, PCNA
- Sherrill Rude, Indiana CPA Society

- 10:02 a.m. Call to order by Emily Landis
- 10:02 a.m. Opening remarks by Emily Landis (See Attachment A)
- 10:03 a.m. Introduction of those in attendance representing DOR
- 10:20 a.m. Opening remarks by Commissioner (See Attachment B)
- 10:20 a.m. Call for public comments by Emily Landis
- 10:22 a.m. Comments from Phillip Jackson (See Attachment C)
- 10:25 a.m. Commissioner expressed appreciation for comments

- 10:26 a.m. Comments from Mark Dutton
- Recognized service and assistance from DOR employees
 - Proposed to post procedures online to have consistency for tax practitioners and Hoosiers
 - Proposed payment plan check to add a “check-box”
 - Proposed sending carbon copies of letters sent to taxpayers to practitioners
- 10:30 a.m. Commissioner expressed appreciation for comments
- 10:32 a.m. Comments from Patrick Thomas (See Attachment D)
- Recognized the improvements and better customer service efforts DOR has made in the last year
 - Proposed DOR considers changes in collection fees for low income taxpayers
 - Principles their organization has identified
 - Proposed DOR provides guidelines and procedures online to have consistency for tax practitioners and Hoosiers
 - Proposed DOR use standards such as, the national and local collection standards, for a taxpayer proving a hardship
 - Proposed DOR provides post assessment on previous years W-2 forms
 - Recognized the proposed assessment letter has been updated
 - Proposed DOR updates the language in the letter to take away from the letter looking as a bill
 - Proposed DOR carbon copies of letters sent to tax payers are sent to tax practitioners as well
 - Proposed DOR considers including a list of low income tax clinics, in Indiana, to appropriate taxpayers in the proposed assessment and demand notice letters
- 10:47 a.m. Commissioner expressed appreciation for comments
- 10:48 a.m. Comments from Frank DiPetro
- Recognized the positive changes DOR has made in the last year and the efforts the Taxpayer Advocate Office has made
 - Recognized DOR’s district offices are a valuable tool to tax practitioners
 - Proposed DOR does not close any district offices as the IRS has
 - Recognized the creation of the Commissioner’s Advisory Council has helped foster the relationship between DOR and tax professionals
- 10:50 a.m. Commissioner thanked Frank for his comments; addressed the DOR district offices in Indiana will not be closing and DOR has no plans to close the offices. The district offices are a vital part of DOR’s operation and DOR understands the importance of these offices.
- 10:51 a.m. Emily Landis read aloud emails from customers sent to DOR
- 10:51 a.m. Emily Landis, on behalf of Tim Schluge (See Attachment E)
- Proposed DOR allows online payments for estimated tax payments for customers
 - Proposed DOR eliminates, reduces or charges a flat fee to the return check penalties
- 10:52 a.m. Emily Landis, on behalf of Andrew Engel (See Attachment E)
- Proposed DOR to list more than just amounts and list payments going back several years on the checking and taxpayer payment amounts
- 10:54 a.m. Final call for speakers by Emily Landis; additional comments from the public; adjourned the annual public hearing.

Attachment A: Opening Statement – Emily Landis

Thank you for attending the Indiana Department of Revenue'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.

If you wish to make a statement, please provide me with your name if you have not already done so. You will be called up to address the commissioner.

At this time, it is my pleasure to introduce the Commissioner of the Indiana Department Revenue, Adam Krupp.

Attachment B: Opening Remarks – Commissioner Krupp

Good morning. Thanks for joining us today. My name is Adam Krupp, Commissioner of Indiana's Department of Revenue. I'm joined by: Communications Director Emily Landis, Chief Operating Officer Bob Grennes, Chief Financial Officer Ed Vance, Chief Information Officer Kevin Gulley, Director of DOR's Taxpayer Advocate Office Tammy Jones, and Monique Young-Wash, our Executive Director of Customer Service.

The founder of the Josephson Institute of Ethics in California is often quoted for saying the following: "Take pride in how far you've come. Have faith in how far you can go. But don't forget to enjoy the journey." At Indiana's Department of Revenue, we have nearly 700 Hoosiers serving the great state of Indiana, and over the past year we have been striving to adhere to those principles.

I sat here a year ago, just 5 months into this job, honored and excited about the opportunities and challenges facing this agency both in the short-term and long-term, knowing we were on the cusp of tremendous change, anxious to see how so many would adapt. The results have been promising. We are proud of the work we have done and the improvements to the agency over the past year, but we recognize there is much more to do.

Last year I also had the opportunity to lay out my top priorities as Commissioner for the Department: (1) customer service; (2) culture; (3) compliance; (4) collaboration; and (5) continuous improvement. These priorities drive every decision we make at the Department, everything from personnel decisions to whether we are going to spend taxpayer dollars on a system enhancement. Today I'd like to share with the public some of the ways in which we have put those into action.

Customer Service

At a very basic level, we have made a couple of subtle but impactful changes. For example, Tax Administration has been re-branded as Customer Service, such that tax analysts are now customer service representatives. This change necessarily brings with it a change in one's mindset and behaviors, connecting us in a more meaningful way with our customers – the taxpaying citizens of Indiana (and beyond) – and serves as a daily reminder of our purpose, as Governor Holcomb stated, "To provide great government service at a great value to Hoosiers." We recognize that people aren't actually purchasing goods or services from the Department, such that the term "customer" might not be the most natural portrayal of the relationship we share with those we serve, but there is a heightened level of care and concern that comes with the customer relationship.

The Department's customer service operation was reorganized statewide to ensure a cohesive and aligned team throughout our 11 district offices and central office here in Indianapolis – one that delivers a consistent and high-quality walk-in, phone, email, and correspondence experience. With the goal of delivering best-in-class customer service ... new staffing, new training, investments in technology, expanded hours and new processing procedures have all paid significant dividends thus far. There is a new energy at the Department, and the real beneficiaries of that are those we serve.

So, how'd we do?

- In 2018, we have processed 3.15 million individual tax returns, 2 million of which generated a refund, and another 141,000 corporate tax returns.
- Speaking of refunds ... 92% of electronically filed individual tax returns resulting in a refund to a Hoosier were processed within 14 days ... that's up from 84% in 2017. The average turnaround time for a refund from the Department is currently 10.7 days compared to 14.5 days in 2017.
- Hoosiers continue to file electronically in record numbers, with nearly 90% of individual income tax returns filed electronically this year with the remainder submitted via paper. We understand many Hoosiers still want to file via paper, or have no means to do otherwise, a reality we will always respect and accommodate.
- Indiana Free File, which allows Hoosiers with a lower adjusted gross income to file federal and state taxes for free, continues to see growth. This year, 85,743 customers took advantage of the option to file through Indiana Free File, compared to 80,839 in 2017, representing a 5.7% increase year over year. We developed a new poster to promote the program, provided posters to other agencies including FSSA to feature prominently in facilities and offices that cater to lower income Hoosiers, and we have plans to continue pushing the program more than ever in 2019 to ensure those who qualify know they can file their taxes for free through Indiana Free File.
- Before we move on from Customer Service, I want to make sure I say that we recognize mistakes are made from time to time, and that's always going to be the case. In some cases, taxpayers err when it comes to documentation required to be submitted, or information is missing ... on the other hand, there are occasions where it's completely our fault. We will never be perfect. What's most important is how we address mistakes. How much time does it take to resolve the issue? Do we do so with proper care and tone? I ask that we be evaluated and held accountable for how we resolve issues or address mistakes more so than whether a mistake was made or by whom. Of all the agencies in state government, the Department handles some of the most complex transactions and encounters some of the most complicated factual situations on the spectrum and I appreciate Hoosiers' patience as we navigate this high degree of difficulty on a daily basis.

Culture

Workplace culture has a direct impact on employee health and the performance of any organization. We have invested a significant amount of sweat equity, if you will, over the past year, towards building a healthy workplace with the ultimate vision of being recognized universally as a great place to work. If you are an avid social media user, you have undoubtedly noticed some changes in the past year, as we continue to shed the "typical government employee" label that often comes with preconceived notions of the level of care, concern, or work ethic that accompanies it. We are challenging every member of the Department to be a proud public servant, one who cares deeply about the mission, who embraces the enormous responsibility we have to deliver great government service, while recognizing the consequences of failure. We are cultivating a "serve

hard, play hard” culture that is designed to attract the next generation of talent, while retaining those who already serve Indiana proudly.

Compliance

We continue to emphasize and reinforce a culture of compliance at the Department, holding ourselves to the highest standards when it comes to compliance with Indiana law, as well as the Department’s own policies. As we prepare to become a modernized environment, the prudent thing to do is to make sure we have current, accurate, and defensible business requirements and rules loaded into the new system. That’s exactly what we have been doing for the past year.

An agency’s reputation throughout the state and the communities it serves is critical. The Department of Revenue must be respected, trusted, and reliable. Mistakes of the past can linger on for years and perception becomes reality if you don’t do something about it.

Collaboration

Decisions are made daily at the Department of Revenue, often impacting millions of people statewide, or select groups of individuals who rely on our services. To the extent possible, it’s important to bring those impacted to the table to be heard.

- Earlier this year, we launched the first Commissioner’s Tax Advisory Council. I appointed 12 individuals from throughout the state of Indiana, plus 2 additional individuals from outside Indiana ... ranging from tax practitioners to advocates interested in good policy and accountability. It’s an opportunity for the Department to provide a behind the scenes look at the daily operations of the agency, share information about services offered and programs we are considering, and bounce ideas off of a group of subject matter experts ... but more importantly, it’s an opportunity for us to listen.
- Additionally, the Department has made a concerted effort in the past year to cultivate a positive relationship with the Indiana CPA Society. We have a standing commitment to send multiple Department representatives to each meeting of the Society’s Tax Resource Advisory Council to listen and answer questions presented to the Department, as we provide updates on key programs, administrative changes, updates to tax forms, and keep the Society informed about the status of our IT system overhaul. This forum provided an opportunity last year for the CPA Society to present some desired changes to the Department, and I’d like to take a moment to address one in particular:
- A request was made to decrease the time it took the Department to certify software vendors so that CPAs and tax practitioners could file federal and Indiana returns simultaneously as opposed to filing federal returns on behalf of their clients and waiting another 4-6 weeks for the Department to accept returns. The desired time-frame presented was that the Department should be ready to accept returns by January 15, but no later than January 31. This was a standard never met by the Department before. Just because it wasn’t done in the past didn’t mean it wasn’t possible. We took on the challenge to be ready that early. In fact, we did a little better than that – we certified vendors and were ready to accept electronic returns by January 8 when the IRS opened its gateway.

Continuous Improvement

Regarding the fifth administrative priority – continuous improvement – there are a host of items to highlight, many of which will be featured in the annual report in October. For now, I'd like to touch upon some major initiatives:

- It was suggested to me – multiple times – that the Department's policy surrounding payment plans was too strict and inflexible. It's important that Hoosiers fulfill their legal obligations for tax liabilities, but there's no denying that many individuals end up unable to do so for a variety of reasons, some of which are outside their control. After consulting with the Advisory Council, our Taxpayer Advocate Office, and practitioners throughout the state, we eliminated the requirement that 20% of the outstanding liability be paid up front to initiate a payment plan, and we expanded the timeframe from "up to 24 months" to pay off the debt to "up to 36 months" as a benchmark, with the ability to extend beyond 36 months on a case-by-case basis. Rather than turn people away because they don't have the means to make an arbitrary down payment, we want to promote compliance while providing an avenue to allow Hoosiers to get back in good standing with the State of Indiana.
- In the spirit of continuous improvement, and even though Indiana's Department of Revenue is recognized as the nation's leader in preventing fraud and identity theft through tax returns – this year alone we stopped \$4 million from getting into the hands of criminals – we took a hard look at the quiz letters sent to individual filers to confirm their identities during tax season. There was a lot of confusion around these letters since they began landing in mailboxes a few years ago, and some concern that the net was cast too wide, so we decided to do a couple of things: (1) First, begin to educate the public about the reasons these letters are arriving, and (2) reduce the overall number of letters without losing any confidence in our fraud analytics and prevention methods. As a result, we were able to successfully reduce the number of ID quiz letters from 247,000 in 2017 to 120,000 this year.
- Our administrative protest process was a frequent recipient of criticism from the practitioner and taxpayer communities, so we conducted roundtables, listening sessions, drafted and implemented a new model that has proven to be more efficient, in large part due to the fact that it is now measured by data for the first time, and it is transparent and predictable to all parties;
- We created a completely new training program for our customer service team, called the JET program (short for Job Expertise Training), which consists of a multi-week classroom experience to better position new hires for the work they will perform; and
- We partnered with the Indiana Secretary of State's Office on an initiative to introduce GIS mapping for business registrations through INBiz and our own system to ensure proper food & beverage tax registrations are submitted, which means the correct local units of government will receive these food & beverage tax distributions; now we can geo-locate the precise physical locations of businesses to determine the proper taxing units instead of the previous method of relying on the business owner to self-select the proper district when registering their business.

Modernization Project

Finally, I'd like to discuss the modernization project that has been mentioned often lately. Last year, we previewed the public procurement process that was set to take place, whereby the Department would ultimately enter into a contract with a selected partner from the private sector to develop and implement a new integrated tax system to replace the Department's legacy system of nearly 25 years. I described it as a "once in a generation" overhaul of the agency's core operating system. Earlier this year, FAST Enterprises was selected to implement our new system. FAST is a significant leader in the revenue administration market, having successfully implemented their proprietary software in 26 states around the country, and several more locations around the world. We have conducted extensive due diligence and traveled to other states who are using FAST's system to assemble best practices, lessons learned through implementation, and verify that what Indiana's Department of Revenue is about to implement is truly best in class.

Over the next four years, the Department will completely modernize and offer new electronic features for filers of all tax types. At a high level, benefits will include extended functionality for an online customer portal which will allow Hoosiers to view past payments and returns, electronic filing of all corporate returns that today are still submitted on paper, the ability to file amended returns electronically, and validation and transparency of revenue disbursements and reporting to local units of government, just to name a few.

This implementation, which comes with a price tag of \$60 million, not including post-implementation support and maintenance for the years that follow, will occur in four phases, the first of which is scheduled to go into production during the fall of 2019. It will completely transform the way Indiana Department of Revenue employees conduct their work each day, and the way Hoosiers interact with us. We have our work cut out for us, but we're already planning how to best inform the public at large about the various changes and new features that come with each particular phase of the implementation.

Conclusion

That concludes my prepared remarks. At this time I'll open it up for comments from the audience.

Attachment C: Statement – Phillip Jackson, Indiana CPA Society

Good Morning Commissioner Krupp and DOR Team Members,

Thank you for the opportunity to provide these comments today. My name is Philip Jackson, CPA and chair of the Indiana CPA Society's Tax Resource Advisory Council. As you know, but for other's benefit: as the most trusted business resource and advocate in Indiana, the Society works closely with the Department to identify and resolve systemic issues and potential areas for administrative improvements for Indiana taxpayers.

Let me begin with an acknowledgement and thank you to you, and your staff team, who have worked hard to implement a focus on providing exceptional customer service to taxpayers and their representatives. You committed at the beginning of your administration to deliver best-in-class customer service for the Department and you have worked diligently to achieve that.

As one member put it: "I've been impressed with the entire DOR operation and communication since Commissioner Krupp was appointed by Governor Holcomb. The executive team is tremendously responsive, communicative and seems to have a genuine desire for growth and improvement. Not that they weren't before, but it's a new level."

We appreciate our elected leader's financial support and the progress being made on the Integrated Tax System Modernization project. We encourage you to maximize end-user input as much as possible in the development phases.

Enhancing certain functions such as the following, will be key to ITS Modernization's success:

- Enhanced online payment history information to include payment date and tax period
- Enhanced functionality of the MeF submission to accept all PDF attachments, which would eliminate problematic issues when filing NOL schedules and other forms not supported by the current system
- Expedite the processing of Power of Attorney forms from practitioners and providing practitioners with PoA with all notices and communications to taxpayer clients simultaneous to taxpayer notification

Our members and the businesses they represent certainly recognized the improvements to the software vendor approval process and communications to stakeholders to achieve acceptance of corporate online filings in advance of the tax season. This has been a long time coming and we would be remiss if we didn't express our appreciation.

As far as areas to improve upon, we'll continue to work with you and DOR staff to address member's issues of concern related to notices to taxpayers:

- Requesting additional information that is excessive
- Inadequate explanation for document request
- Timing of notices during tax season
- Credit denials lacking specific explanation for denial
- Mailing of estimated payment vouchers causing confusion for both taxpayers and their representatives

It was just over a year ago, that you committed to forming a working group to improve administration of the Research & Development Credit for Indiana businesses. Since that time, the Department has drafted a handbook and summary sheet for stakeholders and staff, provided training for auditors, legal and policy staff, worked with IRS to mirror federal compliance, discussed outreach initiatives and is holding monthly meetings to have in-depth discussions about five areas of concern identified by the working group.

We look forward to these and other stakeholder conversations which no doubt led, in part, to the Indiana Department of Revenue recently achieving an A- and being recognized nationally for having “the best sales tax practices amongst all states” by the Council of State Taxation (COST).

As a member of the Commissioner’s Tax Advisory Council formed in December, I can state first-hand that the discussions have been very productive. I am sure they will lead to innovative ways to service and provide transparency, fairness and simplification to Indiana’s taxpayers.

I close in saying: “Thank you on behalf of our nearly 8000 member CPAs who work in public practice, business and industry, government and education.”

Respectfully submitted:

Philip Jackson, CPA

Chair, Indiana CPA Society Tax Resource Advisory Council

Attachment D: Statement 2018 Report on the State of Indiana Tax Administration for Low-Income Hoosiers submitted by Patric Thomas, Frank DiPietro and Dee Dee Gowan; presented by Patrick Thomas Notre Dame Tax Clinic

2018 Report on the State of Indiana Tax Administration for Low-Income Hoosiers

Prepared & Submitted by:

Patrick W. Thomas
Professor of the Practice
Notre Dame Law School

Frank DiPietro
Director – Low Income Taxpayer Clinic
Indiana Legal Services, Inc.

Dee Dee Gowan
Director – Low Income Taxpayer Clinic
Neighborhood Christian Legal Clinic

EXECUTIVE SUMMARY

These Comments provide the second annual report on the state of Indiana tax administration affecting low-income Hoosier taxpayers. Through these Comments, we set forth a case for considering low-income taxpayers as central to effective tax administration; summarize the Department's meaningful improvements in tax administration in 2017; and recommend further improvements for 2018.

Why Consider Low-Income Taxpayers in Tax Administration?

Low-income taxpayers represent a significant share of the total population in Indiana.¹ Fourteen percent of Hoosiers live in poverty, while one in five Hoosiers earn income below 125% of the poverty level.² Given that income tax filing requirements for Indiana residents begin at just \$1,000 of federal adjusted gross income,³ low-income Hoosiers represent a significant share of the Department's "customer" base.

"Low income" encompasses not just those Hoosiers in poverty. United Way reported that in 2014, 22% of Hoosiers had income above the poverty line, but still could not afford basic needs, including housing, childcare, food, health care, and transportation.⁴ The Low Income Taxpayer Clinics (LITCs) that we direct represent taxpayers with incomes up to 250% of the federal poverty guidelines. In our experience, these taxpayers encounter similar challenges interfacing with the IRS and the Department. Tax administration affects these taxpayers similarly to those under the technical poverty threshold, due to the similarly severe financial impact of an unexpected tax bill and an inability to effectively navigate the tax controversy system.

Low-income taxpayers also present unique challenges that often push such taxpayers into poverty; other issues are a cause of poverty. For example, approximately 900,000 Hoosiers, or about 13.6% of the population, live with a disability.⁵ While the national unemployment rate fell to 4.6% in 2016,

¹ See *2012-2016 American Community Survey 5-Year Estimates*, "Poverty Status in the Past 12 Months", available at factfinder.census.gov. This figure is extrapolated from other data in the ACS survey, as 34% of Hoosiers are below 200% of the poverty level, and 53% are below 300%. The ACS survey further shows that 15% of Hoosiers are below the poverty level and 1 out of 5 Hoosiers are below 125% of the poverty level.

² *Id.*

³ Ind. Code 6-3-1-3.5(a)(3).

⁴ United Way ALICE Report – 2016 Update for Indiana

⁵ See *2012-2016 American Community Survey 5-Year Estimates*, "Disability Characteristics", available at factfinder.census.gov. Further, approximately 255,000 Hoosiers have difficulty hearing; 157,000 have difficulty seeing with corrective lenses; 333,000 have a cognitive difficulty; 462,000 have difficulty moving themselves; 163,000 have difficulty with self-care; and 295,000 have difficulty with living independently. *Id.*

Americans living with a disability had an unemployment rate of 10.5%.⁶ Indiana data reflects a correlated decrease in earning capacity: while the median income for those without a disability is \$37,150, Hoosiers living with a disability earn far less—only \$20,299.⁷ While many disabled taxpayers may no longer have filing obligations, many of our clients with disabilities have older tax liabilities. Whether a disability is physical, auditory, visual, cognitive, developmental, or otherwise, it causes difficulties in effectively responding to the Department’s notices and challenging its position.

Low-income taxpayers are often driven into poverty through limited education, while conversely poverty itself may also cause limited educational attainment. As tax administrators, practitioners, and taxpayers themselves can understand through experience, even well credentialed taxpayers have difficulty understanding and complying with our tax system. A lack of education creates tremendous additional difficulty in interfacing with the Department. In our experience, this causes many taxpayers to not respond to the Department’s notices until the most severe consequences occur: a wage garnishment or bank levy. Clear language in notices and channeling low-income taxpayers to representatives are two key interventions, which as we describe below, could better serve both these taxpayers and the Department.

Finally, our Clinics also represent taxpayers who speak English as a second language. Taxation may be very well be a second language to many native Hoosiers, but it is doubly so for immigrants to Indiana. Individuals living in Indiana, regardless of their immigration status, likely have state tax filing and payment responsibilities. The Department must similarly use a unique approach in engaging these taxpayers.

Many low-income taxpayers share one or more of these characteristics. In addition, low-income taxpayers, by definition, often lack the ability to pay their tax liabilities in full. Low-income taxpayers thus bring unique challenges to the Department; given the predominance of such taxpayers among the Department’s customer base, these challenges must be considered in designing and implementing sound tax administration in our state.

2017 Developments

At the Department of Revenue’s 2017 Annual Public Hearing, the directors of LITCs at Indiana Legal Services, Neighborhood Christian Legal Clinic, and the Notre Dame Law School, conveyed the substantial hardships facing our clients in Indiana tax administration, particularly in the tax collections realm. We recommended that the Department:

⁶ Bureau of Labor Statistics, “Unemployment rate of people with a disability 10.5% in 2016” (June 26, 2017), https://www.bls.gov/opub/ted/2017/unemployment-rate-of-people-with-a-disability-10-point-5-percent-in-2016.htm?view_full. This rate excludes those who are retired or otherwise out of the workforce, as well as those who are underemployed.

⁷ See 2012-2016 American Community Survey 5-Year Estimates, “Median Earnings in the Past 12 Months (in 2016 Inflation-Adjusted Dollars) By Disability Status By Sex for the Civilian Noninstitutionalized Population 16 Years and Over with Earnings.”

- (1) Establish payment plans and collection alternatives that consider the taxpayer's ability to pay in determining a payment amount;
- (2) Create an effective payment tracking system;
- (3) Review the Department's enforcement procedures regarding Best Information Available Returns and the AR-80 Notice; and
- (4) Create a Collection Appeals Process for Department accounts administered by Premiere Credit.

Following the meeting, the Department's leadership listened, thoughtfully considered, and responded to these requests in the following ways:

- This year, the Department rolled out a new payment plan system,⁸ which no longer requires the unaffordable 20% down payment that prevented many of our clients from entering into a payment plan outside of the Taxpayer Advocate Office. These standard plans also allow for longer repayment periods, depending on the size of the liability.
- The Department shared our desire for an effective payment tracking system, noting that such a system would be part of the Integrated Tax System that is currently in the development phase.
- During 2017, and building on prior efforts, the Department changed language in its AR-80 Notice to more clearly indicate the availability of an administrative hearing for taxpayers facing a Proposed Assessment.

The Department also fostered greatly improved working relationships with the LITCs. In late 2017, the Department created the Commissioner's Tax Advisory Council; Commissioner Krupp appointed two of the LITC directors, Patrick W. Thomas and Frank DiPietro, to this Council.

One of the Council's first meetings took place at Premiere Credit's Indianapolis facility. The directors toured the facility, met with Premiere's leadership, and developed a better understanding of Premiere's operations. This has led to a greater ease of resolving collection cases involving financial hardship, especially where a dispute exists as to the underlying tax liability.

Finally, the Taxpayer Advocate Office has, to the LITC directors, become an effective tool through which to resolve complicated tax compliance issues. The TAO's staff continues to be a pleasure to work with and there are numerous cases that would not have been resolved, but for their dedicated, patient, and kind work. We would also like to commend the work of the District Offices. Often we are able to solve a problem by bringing it to their attention and when they cannot immediately resolve an issue, they are usually able to give helpful guidance and support.

⁸ Ind. Dept. of Rev., Press Release, *Hoosier Taxpayers Can Find Relief in New Tax Payment Plans* (May 24, 2018), <https://calendar.in.gov/site/dor/event/hoosier-taxpayers-can-find-relief-in-new-tax-payment-plans>.

Recommendations for 2018

The Department, from its leadership to those working on individual matters, deserves praise for developing and implementing these, at times, very profound changes to the Department's prior operations. The changes have resulted in noticeably fewer instances where our clients have been financially harmed without recourse.

While such praise is undoubtedly due, many challenges remain for low-income Hoosier taxpayers. We believe the Department should continue to strive for fairer and more accessible payment plan options for low-income Hoosiers. Notwithstanding the progress made on the Department's payment plans, they still send many low-income taxpayers to the Taxpayer Advocate Office, rather than efficiently using the Department's resources to establish a payment plan. Once there, such taxpayers often encounter challenges, even when represented, in proving their very real financial hardships.

The Department also continues to collect on inaccurate tax assessments, which often do not provide taxpayers with a meaningful opportunity for administrative or judicial review of those assessments. Such processes undermine the public's faith in a fair and equitable tax system.

Finally, the Department could engage in better quality service to Hoosiers through more meaningful, effective, and targeted communications to taxpayers and their representatives.

While the financial impacts of these problems fall most heavily upon low-income taxpayers, they apply to all Hoosier taxpayers. All taxpayers have rights to a fair collection process, accurate tax assessments, and quality customer service. It is squarely in the Department's interests to ensure such rights to Hoosier taxpayers.

Given the frequency with which Hoosiers must interface with the Department, compared with other government agencies, the Department bears a duty critical to fostering voluntary compliance with the tax laws and effective trust in government writ large. The National Taxpayer Advocate, Nina Olson, states in her 2017 Annual Report to Congress that "[the IRS] must acknowledge what the private sector clearly knows: If you don't serve customers in the way they want and need to be served, they will look somewhere else."⁹ While the IRS has a monopoly on federal tax administration, the Department does not. Individuals and companies can elect, if tax administration is severe enough, to depart the state or cease business operations.

But more critically, there is another competitor: the lure of noncompliance. As the National Taxpayer Advocate continues:

If the IRS isn't going to provide you the assistance you need in the manner you need it, then why bother complying with the tax laws? Yes, taxpayers know there may be consequences for blatant noncompliance, but if and when the opportunity presents itself for a taxpayer not to comply in subtle ways that are hard to detect (e.g., reporting cash-economy income), the taxpayer may be more likely to

⁹ Taxpayer Advocate Service, 2017 Annual Report to Congress, xii, *available at* https://taxpayeradvocate.irs.gov/Media/Default/Documents/2017-ARC/ARC17_Volume1_Preface.pdf.

take the opportunity, because there is no “brand loyalty” to the IRS and tax compliance.¹⁰

So too with any state tax administrator. While the National Taxpayer Advocate spoke to quality customer service, failure to fairly collect or accurately assess state tax likewise undermines voluntary compliance. Supporting these rights for all taxpayers likewise supports the Department’s mission.

Underlying the issues we identify, we believe that the Department should commit itself to increased transparency in tax administration. The Department is the one public agency with which Hoosiers, without question, can plan on interfacing in their lifetimes. The public therefore has a right to access, in an easily understandable manner, their own tax information, the availability of administrative relief, and the guidelines and rules under which the Department will evaluate their requests for such relief. Taxpayers also ought to be made aware of the significant steps the Department has taken, and the new avenues for resolving cases of which only practitioners may currently have knowledge.

Grounded in these principles—fair collection practices, accurate assessments, and quality customer service—and an overarching concern for increased transparency, we raise the following as the ten Most Serious Issues facing Hoosier taxpayers in 2018.

¹⁰ *Id.*

Most Serious Issues in Indiana Tax Administration

I. FAIR TAX COLLECTION PROCESSES:

Issue #1: Payment Plan Options: The Department has 272,000 active individual tax warrants that may be acted upon by local sheriff departments and Premiere Credit of North America. Failure to either fully pay the amounts owed under these tax warrants or enter into a payment plan with the Department can result in wage garnishments and or bank levies. These collection actions, when enforced, may often cause severe financial stress and hardship for Hoosiers. Examples of financial hardship include the inability to make necessary living payments such as utility and rent payments, closure of bank accounts due to excess bank levy fees, and the inability to purchase food.

Despite the Department's welcome progress on this issue, low-income taxpayers continue to be unable to afford certain payment options. In 2017, the average monthly social security retirement benefit was \$ 1,404,¹¹ which is less than 120% of federal poverty guidelines for a household of one.¹² Disabled workers receive even less, an average of \$ 1,197, per month.¹³ To avoid wage garnishment or a bank levy, such taxpayers must apply for hardship payment plans with the TAO. This delays certainty for the taxpayer, and both drains resources and delays payment for the Department.

Recommendation: Increase the maximum repayment period to 60 months for individual taxpayers with total liabilities exceeding \$1,000.

Issue #2: Taxpayer Payment History: As we highlighted last year, 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 practitioners efforts at collections compliance are often frustrated. The Internal Revenue Service provides Account Transcripts, upon request via facsimile or through its e-services portal, that easily allows 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 open liabilities. 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).

The Integrated Tax System is a welcome development, but remains on the long-term horizon.

Recommendation: Devise an interim solution to easily apprise taxpayers, practitioners, and Department employees, in a standardized written manner, of a taxpayer's payment history on

¹¹ SOC. SEC. ADMIN., FACT SHEET: SNAPSHOT OF A MONTH: DEC. 2017 BENEFICIARY DATA 1.

<https://www.ssa.gov/news/press/factsheets/basicfact-alt.pdf> (last visited June 12, 2018).

¹² 82 Fed. Reg. 19 (Jan. 31, 2017) (noting that the poverty guideline for a household of one is \$12,060).

¹³ SOC. SEC. ADMIN., FACT SHEET: SNAPSHOT OF A MONTH: DEC. 2017 BENEFICIARY DATA 1.

open liabilities—including voluntary payments, state and federal refund offsets, and enforced collection activity by county sheriffs and Premiere Credit.

Issue #3: Financial Hardship Guidelines & TAO Substantiation Requirements - The Taxpayer Advocate Office does not publish guidelines for evaluating hardship payment plan or offer in compromise applications. This includes how a taxpayer's assets, income, and expenses should be reported to the Department, how such information will be evaluated in adjudicating the application, and whether and the extent to which such information should be substantiated through documentation. This not only makes the application itself difficult, but also dissuades use of these programs where the likelihood of achieving a particular result is unclear.

Further, the TAO continues, at times, to require taxpayers to submit detailed receipts for food, clothing, and other miscellaneous, necessary expenses that have small individual dollar values. These expenses, by nature, are difficult for taxpayers to track—yet every living taxpayer necessarily incurs a minimum amount of such expenses.

The clients we serve are often on long-term disability or social security retirement benefits. Their financial hardship is unlikely to ever change. In addition, many of our taxpayers are unable to come up with the documentation required to prove financial hardship, which presently includes two months' worth of documentation of all expenses.

Missing one document often results in automatic rejection of the claim in a standard form letter. While many directors have established relationships with the TAO that, we believe, mitigates the chance of a systemic rejection, unrepresented taxpayers do not have this ability.

Finally, once a taxpayer's financial hardship is approved, the requirement of re-application for review usually involves a short timeline, such as one year. Where the taxpayer's age, medical condition, or other personal circumstances indicate little likelihood of an improved ability to pay, this review process drains resources from both the Department and the taxpayer.

Recommendation: Develop, in consultation with the Commissioner's Tax Advisory Council, guidelines for the Taxpayer Advocate Office to evaluate hardship payment plan and offer in compromise applications. After development and implementation, the Department should publicize these guidelines on its website.

The Department should utilize the National and Local Collection Standards, published by the IRS, to eliminate the need for submission of grocery receipts, gasoline purchases, and out-of-pocket medical expense records, except in special circumstances where taxpayer expenses exceed those standard amounts.

Finally, review of these taxpayers' financial hardship should only occur when the Department receives some evidence, such as a W-2 or 1099 form, which shows that the taxpayer's income has increased substantially. This will benefit the Department by reallocating resources to the collection of debts from taxpayers who have the ability to pay.

In summary, the Department must consider the facts and circumstances that might affect Hoosier taxpayers' underlying tax liabilities, their ability to pay, or their ability to provide information timely to

the Department. Hoosiers must be able to clearly understand the collection alternatives that are offered to them by the Department, how to apply for these collection alternatives, and the qualifications standards used by the Department to determine eligibility of collection alternatives.

II. ACCURATE TAX ASSESSMENTS

Issue #4: Unnecessary Substantiation Required for Unemployment Deduction: The Department does not allow the unemployment deduction per Schedule 2 of the IT-40 when the IT-40 is paper filed without being accompanied by IRS Form 1099-G. The attachment of IRS Form 1099-G is not required to receive the unemployment compensation deduction when the state tax return is electronically filed.

Recommendation: Remove the requirement of attaching IRS Form 1099-G with the paper filing of the state tax return IT-40. Alternatively, accept the IRS Wage and Income transcript showing IRS Form 1099-G as sufficient documentation to receive the unemployment compensation deduction.

The Department already regularly exchanges information with the IRS and other federal and state agencies. In turn, Best Information Available (BIA) returns are generated, in part, from information obtained from the IRS through an exchange agreement authorized under the Internal Revenue Code.¹⁴ In addition, when the IRS modifies a taxpayer's previously submitted tax return through an examination, the Department receives this information and subsequently modifies the taxpayer's state return and then notifies them through an AR-80 notice. Continuing the practice of relying on information received from the IRS, the Department should allow taxpayers who receive unemployment compensation to receive the corresponding deduction without the need to submit IRS Form 1099-G.

Issue #5: Inaccurate Withholding Credit Calculations

Taxpayers who receive a Best Information Available (BIA) Return or paper file their IT-40 without attaching their W-2s do not receive credit for any state or local income taxes that have been withheld by their employer and remitted to the Department. In either case, this often causes taxpayers to incur large liabilities that they truly do not owe, particularly considering the lack of clarity in the Proposed Assessment noted in Issue #6. Where the taxpayer files an IT-40 on paper without the W2, the Department issues a mathematic error notice, and directly bills the taxpayer without issuing a Proposed Assessment.

Practitioners cannot prospectively address this issue, because taxpayers who are long-term non-filers often cannot obtain copies of their W-2 forms from their former employers. As practitioners, we therefore obtain Wage and Income transcripts from the IRS to prepare these unfiled returns, in order to bring these taxpayers to both filing and collections compliance. However, these transcripts do not contain state withholding data. The Department is largely unwilling to provide W-2 withholding data

¹⁴ I.R.C. § 6103(d).

to the taxpayers or practitioners. Yet, The Department has a record of income tax withheld by the employers through the submission of form WH-3, a required submission by all employers within the state of Indiana.¹⁵ We are therefore unable to complete an accurate Indiana tax return; we may further have an ethical obligation to advise our client not to sign a tax return under penalties of perjury where we reasonably know that that return contains inaccuracies.

While we understand the need for BIA assessments for unfiled returns, the Department should not expend its limited resources to collect tax that has already been paid and will need to be returned when the taxpayer demonstrates it has made payment. What is more, this continues to occur, even where the Department possesses the taxpayer's withholding data and could calculate an accurate return. In these circumstances, the Department requires the taxpayer or practitioner to provide the original W2.

Recommendation: We propose the following:

1. The Department should work with practitioners to identify a way for taxpayers to obtain their W-2 withholding directly information from the Department before filing a tax return, if they cannot obtain the information from their employer.
2. The Department, in proposing BIA assessments, should automatically calculate withholding credits without requiring substantiation by a taxpayer. The Department should further not issue a Proposed Assessment if no net tax is due.
3. The Department should, following the Indiana Code, issue a Proposed Assessment where the taxpayer paper files an IT-40 that claims withholding credits without substantiation.

Issue #6: Lack of Clarity in Proposed Assessments - While the Department now provides clearer information on the availability of a protest to a Proposed Assessment, the directions could be clearer still—especially for those taxpayers without Internet access. The current AR-80, Proposed Assessment notice reads as follows:

IMMEDIATE ACTION REQUIRED: A review of your Indiana Individual Income tax for the tax period December 31, XXXX shows you may owe \$XXXX.XX, including penalty and interest. YOU MUST TAKE ACTION IMMEDIATELY TO RESOLVE THIS DEBT. You must pay the amount owed no later than [Date], or you may protest this tax assessment within 60 days (by [Date]). If you fail to do either, this tax debt will continue to accrue interest and could convert into a tax warrant for collection action. For more information on protesting the assessment, visit www.in.gov/dor/5691.htm. To pay your bill online, make a payment arrangement, or ask questions, visit www.epay.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

¹⁵ Ind. Dep't of Rev., *WG-3/W-2 Withholding Tax Electronic Filing*, <https://www.in.gov/dor/4455.htm> (last visited June 14, 2018).

you for your immediate attention to this matter. ***SEE REVERSE SIDE FOR IMPORTANT DETAILS AND MAILING ADDRESSES.***

As noted above, the AR-80 now lists a Department webpage that contains detailed information on preparing and filing a protest. It also lists the specific deadline for filing a protest, rather than leaving it to the taxpayer to calculate. These are welcome changes.

Yet the pertinent information remains buried in a paragraph within a great deal of other information. There are also no indications in the letter itself of how to begin this process. Further, for taxpayers without the access, capabilities, or desire to use the Internet, there is no phone contact information listed that would direct a taxpayer to someone in the Legal Division of the Department—though there is a phone number for the general customer service line.

Finally, many of our clients continue to believe that the AR-80 is actually a bill that reflects a tax has been assessed and therefore is currently due. Language within the AR-80 notice still makes multiple references to “amount you owe”, “your bill”, “debt”, and “tax due”. Therefore, this belief is not unreasonable.

Recommendation: Better inform taxpayers of the purpose of the Proposed Assessment, along with taxpayer rights (and how to access those rights) upon receiving a Proposed Assessment. Examples include:

- (a) List the Legal Division’s phone number on every Proposed Assessment;
- (b) Enclose a Protest Submission Form with every Proposed Assessment; and
- (c) Remove references in the Proposed Assessment to “your bill”, or other references that indicate that a proposed tax is assessed and payable.
- (d) Change the language regarding the option to protest a Proposed Assessment to the following: “You may protest this PROPOSED assessment.” Clearly explain, in the AR-80, how to protest the Proposed Assessment.

We also suggest that the Department pilot certain notices, including the Proposed Assessment, that incorporate behavioral economics, and assess whether taxpayers more appropriately respond to such notices.

Nothing contributes more to the erosion of public confidence within the Department than inaccurate tax assessments. Correspondence with Hoosiers must be clear, concise, and provide all of the necessary information to resolve any errors and ensure the accuracy of their accounts with the Department.

III. QUALITY CUSTOMER SERVICE

Issue #7: Lack of Clarity in Demand Notices: The AR-40, Demand Notice does not notify the taxpayer of the opportunity to pay their balance through payment plans or the possibilities of an offer in compromise or hardship claim. As the AR-40 notices are based on a similar template to the Proposed Assessment, described in Issue #6, similar clarity issues affect these notices. Other than paying the tax debt in full (not a feasible option for many of our clients), it is often unclear just what a taxpayer should do after receiving this notice.

Recommendation: Direct taxpayers to payment plan options via the phone and internet, including the Department's standard payment plans, as well as the Taxpayer Advocate Office. Refer eligible taxpayers to the LITCs, pursuant to Issue #10.

Issue #8: No Public Access to Historical Guidance: The Department does not publish its historic sub-regulatory guidance online, in an easily searchable manner.

The Department issues Departmental Notices and Information Bulletins on an annual basis, which it publishes online.¹⁶ These sub-regulatory guidance documents, which do not require publication in the Indiana Register or public comment, nevertheless interpret the Indiana Code and set forth guidelines by which the Department operates and on which taxpayers rely. The Department also notes the titles of certain Departmental Notices and Information Bulletins where the item is repealed or deleted wholesale.¹⁷

However, the Department does not publish the underlying text of its deleted notices, or any Departmental Notices or Information Bulletins for previous years when those items are renewed. Should a taxpayer who relied on such a notice or bulletin be audited, they and their representatives do not have access to this information. Such information is searchable on the Department's research tool, Legal FinDOR;¹⁸ however, it lacks functionality in effectively searching for these guidance documents.

Recommendation: Publish this guidance, including Departmental Notices and Information Bulletins, online in an easily searchable format.

Issue #9: No Correspondence to Practitioners: Except when a case is before the Legal Division, authorized representatives are not 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 times, 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

¹⁶ Ind. Dep't of Rev., *Departmental Notices*, <https://www.in.gov/dor/3618.htm> (last visited June 18, 2018); Ind. Dep't of Rev., *Information Bulletins*, <https://www.in.gov/dor/6192.htm> (last visited June 18, 2018).

¹⁷ *Id.*

¹⁸ Ind. Dep't of Rev., *Legal FinDOR*, <https://www.in.gov/dor/5630.htm> (last visited June 18, 2018).

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.

Recommendation: Copy representatives on all Department correspondence.

Issue #10: Lack of Representation & Limited Knowledge of Department's New Initiatives:

While the LITC directors now have access to effective case resolution techniques, unrepresented taxpayers do not. Further, the Department does not refer such cases to our clinics on an institutional level.

Recommendation: Highlight the availability of the payment plan options and the Taxpayer Advocate Office to all taxpayers through including this information on important Department notices, such as the AR-80 and AR-40. Refer eligible taxpayers to the Low Income Taxpayer Clinics through listing contact information for the Indiana LITCs in the AR-80 and AR-40 notices.

While customer service has greatly improved within the Department, further strides are necessary for practitioners and taxpayers alike to provide the quality tax system Hoosier both need and deserve.

Conclusion

During the last year, the Department and its Commissioner have shown renewed interest in improving the Department's operations. We are very much encouraged by this renewed focus on serving taxpayers, the current state of tax administration in Indiana, and the developing plans to improve it. Through our joint efforts, we have been able to make positive change at the Department, and therefore positive change for Hoosiers. The Department should take pride in its accomplishments over the past year and its long-term plans for its future. We respectfully submit this report and its recommendations to help the Department meet its goals: a Department that operates efficiently, offers best-in-class customer service, and effectively leverages its dedicated employees to respond to taxpayers' unique circumstances. As Hoosier taxpayers ourselves, we share these goals.

We believe most of the recommendations presented in this annual report are non-controversial, common sense reforms that will strengthen taxpayer rights and improve tax administration. We encourage the Department to review these Comments and contact us with any questions or suggestions. We look forward to working with the Department on these important issues in the coming year.

Attachment E: Emails Received

Andrew Engel, CPA

Checking taxpayer payment amounts

It would be helpful if the DOR could list more than just amounts
That would be, list amounts, dates received, and which tax year the DOR has applied the payments.

It would also be helpful if the department could list payments going back several years. Having all this information on line can possibly save time wasted waiting for an agent on the telephone. As a preparer, this kind of information can be especially helpful with new clients or those that could be more than one year in arrears.

Tim Schluge

My comment for the annual public hearing is related to online tax payments.

I had a client who made an estimated tax payment online on in.dor. The business routing number was entered but a personal checking account number was entered by mistake, so the payment was rejected. The client was charged a "returned check penalty" of 25% of the tax payment for this online payment rejection. This penalty was large since the tax payment was significant. This is a huge deterrent for encouraging people to pay online if they are charged an enormous penalty for what is considered a "typo" in the system. It had nothing to do with not having money in the checking account. Online payments would seem to cut down significantly on manual labor for the department. I think the penalty should be eliminated altogether, or at least reduced significantly. Or charge a much smaller flat fee, not an egregious amount based on the amount of the tax payment.

Thank you.

Tim Schluge