

AREAS OF RECURRING TAXPAYER NONCOMPLIANCE

The Indiana Department of Revenue's Compliance Division monitors and maintains various projects in an effort to promote "voluntary" compliance by Indiana taxpayers. In order to do so, this division's particular programs identify non-filing, noncomplying taxpayers, violating Indiana Code (IC), in the areas of individual, corporate, sales and use, and withholding taxes.

During fiscal year 1998, the Department's Compliance Division found the following areas of recurring taxpayer noncompliance:

Aeronautics Section: The Aeronautics Section mailed 4,530 aircraft registration renewals for the calendar year 1997. As of December 31, 1997, only 117 aircraft owners were delinquent. This translates to a 97.5% compliance rate. The following amounts were collected:

Aircraft Excise Tax	\$ 381,784
Registration Fees	\$ 70,182
Aircraft Sales/Use Tax	\$1,828,255

Total	\$2,280,221
Airport Late Fees	\$ 320

Based Aircraft Reports

The Aeronautics Section researches the based aircraft information updated by the airport owner and/or operator to verify all aircraft based in Indiana, including non-resident owned aircraft, are in compliance with Indiana Code. The late penalty fee of \$10 per day may be charged on all late based aircraft reports. Three hundred twenty dollars (\$320) was collected in airport late penalties in the fiscal year 1998.

The based aircraft reports led to the identification of eighty-eight (88) owners of unregistered aircraft based at Indiana airports. The owners were assessed a total of \$1,104,728 for sales and use tax, excise tax, registration fees, penalty and interest.

Aircraft Dealers

Indiana Code 6-6-6.5 was revised to ensure only bona fide aircraft dealers were issued an aircraft dealer license and allowed to purchase inventory for resale exempt from sales tax. Before the code change, over 200 entities were registered as aircraft dealers with several using their inventory and not reporting or remitting any sales tax. After the code change, the number of registered aircraft dealers was reduced to approximately 110. The code change also requires dealers to

register and pay all applicable tax on inventory held more than 18 months. This change will ensure inventory aircraft are actually purchased for resale and sold within a reasonable time period or the dealer will be subject to all applicable taxes.

Bankruptcy/Responsible Officer Section: During fiscal year 1998, this section filed 2,079 claims with the U.S. Bankruptcy Courts totaling \$17,599,822 for unpaid tax delinquencies and projected tax liabilities for non-filed returns. This section processed \$3,082,869 in disbursements from bankruptcy proceedings. Corporate officers may be held personally liable for the payment of unpaid trust taxes such as sales/use, withholding tax, and food and beverage tax. The entity collecting a trust tax is operating as an agent for the state. Responsible officers of solvent and bankrupt entities were assessed \$11,356,805 in delinquent trust taxes during the year.

Total taxes assessed by this section for fiscal year 1998 were \$28,956,687.

Corporate Income Tax Section: The Corporate Income Tax Section assists taxpayers with corporate or financial institutions tax questions on a daily basis.

The Corporation Income Tax Section provides assistance to taxpayers with telephone and/or written inquiries related to gross, adjusted, supplemental net income taxes, financial institutions tax, all forms, schedules, deductions, credits and liabilities for regular corporations (Form IT-20), Indiana special corporations (Form IT-20SC), partnerships (Form IT-65), small businesses (Form IT-20S), and governmental entities (Form IT-20G). The section also issues clearances for corporate reinstatements, dissolutions, and withdrawals in conjunction with the Secretary of State's Office.

Several areas of noncompliance were identified in fiscal year 1998:

Federal Audits

Results of modifications to federal adjusted gross income are communicated to the Department by the Internal Revenue Service or by the taxpayer. Corporate income tax in the amount of \$636,885 was collected and \$59,439 in late penalties and interest was assessed through the Federal Audit Project.

Voluntary Compliance Agreements

Voluntary agreements are initiated by taxpayers desiring to become compliant with Indiana filing requirements. After meeting the terms of the agreement, the taxpayer is considered in current standing with the De-

partment. This project resulted in the collection of delinquent corporate taxes in the amount of \$89,618 and generated assessments for interest of \$473.

Penalty for Underpayment of Estimated Taxes/Late Payment Penalty & Interest

Returns are identified where the underpayment penalty should have been calculated or was calculated incorrectly. Remittance returns are reviewed for application of late payment penalty and interest. Assessments for fiscal year 1998 totaled \$220,468.

Individual Income Tax Section: The Individual Income Tax Section's mission is to identify and pursue non-filers, as well as to verify the accuracy of filed returns. Resources include information from the Internal Revenue Service, various Indiana state agencies, other state taxing agencies, and anonymous informants. Our standard compliance projects and findings for fiscal year 1998 are as follows:

Federal Audit

The Internal Revenue Service provides agreed federal tax audit reports to the Department. If the taxpayer did not amend their Indiana individual income tax return to report the Indiana adjustments resulting from the federal modifications detailed in the audit findings, a tax bill is generated. The federal audits also led to the disclosure of Indiana non-filers. The entire project resulted in 2,193 taxpayers receiving an average assessment of \$844 totaling \$1,851,176.

CP2000 Unreported Income

The Internal Revenue Service sends data on Indiana taxpayers under reporting taxable income derived from wages, interest, dividends, or non-employee compensation to the Department. These types of income are reported on W-2's or Form 1099 information returns. An assessment is generated if this income is not reported on the original return, or an amended return, if applicable. Assessments averaging \$284 were created for 2,199 taxpayers totaling \$624,732.

Withholding Discrepancies

The Withholding Section compares the annual WH-3 form with the payments made during the year. If an underpayment exists, the taxpayers are billed. This section generated 1,959 bills for \$2,862,654 (average bill \$1,461).

Individual Desk Audits

The Individual Desk Audits resulted in 164 bills for \$191,622. These audits were conducted from submissions within the agency, as well as from anonymous sources.

Strategic Compliance Section: The Strategic Compliance Section develops and implements projects designed to increase voluntary compliance. This section also assisted with this year's agency correspondence, suspended transactions and processing of review items.

Through the Federal/State Exchange of Agreement, the Internal Revenue Service provides the Indiana Department of Revenue with information on employers who have filed paper W-2's with the IRS and have a link with Indiana. Assessments in the amount of \$591,355 were issued to employers.

This section's efforts to increase use tax awareness were expanded to include individual income taxpayers. The section continues to inform professional and service-oriented businesses about the possibility that they may have a use tax liability. The Use Tax Project produced \$367,849 during fiscal year 1998.

The section researches taxpayers that are delinquent in one tax area and sometimes find that this same taxpayer is not on file for another tax type. This type of research resulted in collections of \$503,030 this fiscal year.

Miscellaneous projects from various sources helped to identify non-filers of returns for sales tax, withholding tax, individual income tax, and corporate income tax. An additional \$584,013 was generated as a result of this information.

Utility/Refund Section: This section reviewed and processed 9,353 Applications for Utility Sales Tax Exemption (Form ST200). Of these, approximately 8,095 of the applicants qualified for a 100% exemption on their purchase of public utility services. These applicants were primarily government, not-for-profit organizations and those companies engaged in manufacturing whose use of the utility was predominately for an exempt purpose. Percentage exemptions were received by 794 restaurants, industrial processors, grocers etc.; these companies will claim an annual refund for the exempt percentage granted. Of the 464 applications denied, most were denied for nonproduction, failure to provide necessary information or were determined to be ineligible through an audit.

This section processed 3,441 claims for refund of sales tax, which totaled \$5,603,088. Of this amount, \$1,456,226 was denied due to taxpayer failure to meet exemption requirements, taxpayer failure to provide necessary information, and/or the expiration of the statute of limitations.

More than \$197,000 in tax and interest was collected as a result of voluntary compliance agreements. These agreements come about when an out-of-state company contacts the Department regarding their delinquent tax status. The company agrees to register and remit all past amounts due in order to bring themselves back into "good standing".

Approximately \$147,000 was collected from a variety of sources. Bills were generated from information received from the Bureau of Motor Vehicles and from other states. Payments were received from out-of-state companies who either owed Indiana use tax or had collected Indiana sales tax from an Indiana customer.

Charity Gaming Section: This section is responsible for licensing qualified, not-for-profit organizations for bingo, festivals, raffles, door prizes, and charity game nights. Also, licensing manufacturers and distributors of tip boards, punch boards, and pull tabs.

As a result of investigations completed, 18 not-for-profit organizations were assessed civil penalties for statute/rule violations and income tax assessments were imposed against the noncomplying organizations. 45 IAC 18-5-1 provides that the income from the operation of a non-licensed charity gaming event is unrelated income and subject to gross income tax, adjusted gross income tax and supplemental net income tax.

<i>Indiana Code</i>	<i>Total Assessed</i>	<i>Number of Violations</i>
IC 4-32-6-17	\$2,000.00	2
IC 4-32-7-4	\$1,500.00	2
IC 4-32-9-2	\$26,000.00	11
IC 4-32-9-7	\$2,500.00	1
IC 4-32-9-17	\$11,250.00	12
IC 4-32-9-18	\$500.001	1
IC 4-32-9-20	\$1,000.00	1
IC 4-32-9-21	\$750.001	1
IC 4-32-9-25	\$15,500.00	4
IC 4-32-9-28	\$1,500.00	1
IC 4-32-9-29	\$2,500.00	2
IC 4-32-9-30	\$500.001	1
IC 4-32-11-3	\$13,025.00	12
IC 4-32-12-1	\$9,500.00	3
IC 6-2.5-3-6	\$202.101	1
*45 IAC 18-5-1	\$153,753.47	8
TOTAL:	\$241,980.57	63

* As provided by 45 IAC 18-5-1, eight (8) organizations were issued income tax assessments totaling \$153,753.47, including penalty and interest.

The Indiana Department of Revenue's Returns Processing Center's mission is to efficiently process tax returns and ensure timely deposit of tax revenues in support of the Department's overall mission and goals. In a given year, the Department's Returns Processing Center processes five to six million various types of Indiana tax returns.

During fiscal year 1998, the Department's Returns Processing Center found the following areas of recurring taxpayer noncompliance:

■ Incomplete Returns. The Department often receives individual income tax returns without attached W-2 forms or not every W-2 form is attached to cover the amount of withholding tax claimed on the return.

■ Filing Wrong Return. The Department receives returns that the taxpayer filed, but due to deductions taken or income level requirements, a different return should have been used (i.e., using the IT-40EZ when a IT-40 should have been filed).

■ Failure To Include W-2 Forms With The WH-3. The WH-3 is a reconciliation of the W-2 forms and both forms are required to be sent in together. The WH-3 is often received using the wrong ownership type, or is sent without the proper registered account number. When this occurs, it typically means that the taxpayer has not registered with the Department and they have not filed withholding tax forms on a monthly or quarterly basis as is required by law.

■ Failure To Complete All Required Lines/Information. The Department receives many returns that contain "missed" or incomplete information. Many times, taxpayers will fail to complete all lines and the county code boxes on the individual income tax returns. This slows down the agency's return processing. If the omitted information is obtainable, the Department will do so. Otherwise, the return must be sent back to the taxpayer.

■ Use of Non-Departmental Payment Coupons. The Department provides preprinted voucher coupons to a number of taxpayers for payment of various taxes, such as estimated tax payments. Often times, taxpayers will submit payment with incorrect forms. This slows down the processing time.