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COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 29, 2017

Ms. Nonie Manion
Executive Deputy Commissioner
Department of Taxation and Finance
William A. Harriman State Campus
Building 9, Room 217
Albany, NY 12227

Re: 2017-BSE8-01

Dear Ms. Manion:

We examined¹ all tax year 2015 personal income tax returns processed by the Department of Taxation and Finance (Department) where the taxpayer claimed a Child and Dependent Care Credit. This included taxpayers who claimed either the New York State Credit or both the New York State and the New York City Credits (collectively referred to as credits). For tax year 2015, the Department processed 444,127 returns containing credits totaling \$177.1 million.

Our objective was to identify potentially inappropriate credits processed by the Department because the expenses claimed were not paid by the taxpayer, but were paid, in whole or in part, through subsidies from the New York State Office of Children and Family Services (OCFS) or the New York City Administration for Children's Services (ACS). To accomplish our objective, we matched a file of tax year 2015 personal income tax returns processed by the Department to the subsidized day care files provided by OCFS and ACS.

We found the Department processed 29,102 personal income tax returns for tax year 2015 that contained potentially inappropriate credits valued at \$18.3 million. This includes \$13.8 million in amounts not identified through our daily audit of personal income tax refunds. Taxpayers may not claim a credit for any child care subsidy paid by ACS and/or OCFS. However, if the subsidy was for a portion of total child care expenses, taxpayers can claim their out-of-pocket expenses.

While OSC is able to access the data for our audit purposes, we are precluded from sharing specific information about the contents of these files with the Department, including the existence and dollar amount of the subsidy.

¹ We performed our examination in accordance with the State Comptroller's authority set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8, and Article VII, Section 111 of the State Finance Law.

The Department has previously pursued legislation to enable their use of subsidized day care data for use in auditing personal income tax returns. The findings from this examination demonstrate the benefits of this approach and we continue to support the Department's efforts to access this information.

Recommendations

1) *Continue to pursue legislation to allow the Department to obtain child care subsidy data directly from ACS and OCFS.*

a) *Use the data to identify taxpayers who claim inappropriate credits.*

We would appreciate your response to this report by September 29, 2017, indicating any actions planned to address the recommendations in this report. We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

cc: Ed Chaszczewski, Deputy Commissioner
James Brunt, Director of Internal Audit
Joseph Carzo, Director of Audit Division
Diane Rynski, Director of Personal Income Tax