

SCARSDALE UNION FREE SCHOOL DISTRICT
Scarsdale, New York

MEMORANDUM

DATE: November 10, 2022
TO: Board of Education
FROM: Dr. Drew Patrick, Interim Superintendent
CC: Mr. Stuart Matthey, Assistant Superintendent for Business & Facilities
Lisa Zareski, Treasurer
RE: IRS Matter Summary

Background

A series of errors related to the payroll withholding function during the first, third, and fourth quarters of 2020, coupled with irregular communication practices from the IRS during this time period, resulted in the accumulation of a significant dollar amount of penalties and interest levied against the District. This culminated in a lien against district property. The details related to each issue are summarized below. Later in this memo is a financial accounting of the costs associated with this matter in sum and substance.

The accounting of costs is organized into three domains. First, the penalties and abatements amounted to a net \$843,558.00 in costs to the District, which is the same amount the District sent to the IRS on 4/6/2022. The second component is rebates and recoveries from the IRS, which totalled \$851,186.56. Together, the rebates and recoveries exceeded the penalties and abatements by \$7,628.56. In other words, the district recovered more than it expended due to the reimbursement of earned interest on the amount paid and held by the IRS. The third component consists of related costs and recoveries associated with this matter. This included District counsel (general, labor), tax counsel, an investigator, an audit of our payroll tax withholding process, the calculation of estimated lost interest on money paid, and savings associated with salary breakage between the outgoing and incoming superintendent. This resulted in an estimated net cost of \$184,178.36. In sum, the total net cost of resolving the IRS Matter was \$176,549.80.

Fate of the Payroll Tax Submission Errors

Quarter 1 2020

Issue	Associated IRS Response	IRS Penalties & Fees	District Actions	Final IRS Determination
In February 2020, the District was responsible for making a federal tax deposit in the amount of \$1,048,570.22. However, due to a clerical error, on February 6, 2020, the federal tax deposit was made in the amount of \$148,570.22, resulting in an accidental \$900,000 shortfall.	Notice CP220 dated January 11, 2021, that the Taxpayer had been charged a penalty in the amount of \$174,798.60 for the total failure to make a proper federal tax deposit in the first quarter 2020. Notice CP210 dated April 26, 2021, that the Taxpayer had been charged an additional penalty of \$539,370.11 for the total failure to make a proper federal tax deposit in the first quarter 2020.	\$174,798.60 <u>\$539,370.11</u> \$714,168.71	Form 843 Claim for Refund and Request for Abatement Q1 2020 Penalty	Form CP210 dated 7-18-22 showing \$714,168.71 credit to Scarsdale for overpayment, in addition to interest credit of \$30,027.73, totalling \$744,196.44 in credit to the District in response to Form 843 submitted. <u>Returned to District:</u> \$744,196.44

Quarter 3 2020

Issue	Associated IRS Response	IRS Penalties & Fees	District Actions	Final IRS Determination
When making its August 14, 2020 federal tax deposit, i.e., a third quarter 2020 deposit, the District inadvertently misapplied it to the second quarter 2020. This resulted in an overpayment and a credit in the amount of \$234,539.09 in the second quarter 2020.	Funds deposited were applied to penalties and interest that had been assessed related to the inadvertent first quarter 2020 \$900,000 shortfall. This caused additional shortfalls in both the third and fourth quarters 2020, respectively. Between August 9, 2021 and September 13, 2021, the District was notified by the IRS that, instead of being refunded or applied to the proper quarter as the District had intended, the two "overpayments" had been applied to this first quarter 2020 penalty and additional penalty and, thus, the District had therefore "failed to deposit" the required amounts for both Q3 and Q4 2020, resulting in new penalties for each.	\$147,151.39	Form 843 Claim for Refund and Request for Abatement Q3 2020 Penalty	\$100,243.55 and interest for 334 days of \$6,746.57 refunded to the District, totalling \$106,990.12; \$46,907 applied to taxes owed or penalties sustained. <u>Returned to District:</u> \$106,990.12

Quarter 4 2020

Issue	Associated IRS Response	IRS Penalties & Fees	District Actions	Final IRS Determination
When making its October 15, 2020 federal tax deposit, the District inadvertently misapplied it to the third quarter 2020. This resulted in an overpayment and a credit in the amount of \$1,135,114.51 in the third quarter 2020	Instead of being refunded or applied to the proper quarter as we had intended, deposit was applied to penalties and interest that had been assessed related to the Q1 2020 \$900,000 shortfall causing additional shortfalls in both Q3 and Q4 2020, respectively. This resulted in new "failed to deposit" penalties for each quarter.	Failure to Deposit penalties assessed: \$355,396.27 \$38,138.80 <u>\$54,781.74</u> \$448,316.81 <u>Total Lien</u> \$1,309,636.91	Request for Equivalent Hearing made to IRS associated with lien. Total payment to IRS for Q4 2020 failure to pay for <u>tax shortfall:</u> \$843,558	All three failures to deposit penalties abated, reducing original lien from \$1,309,636.91 to \$861,320.10 (Q1 and Q3 penalties, only). A net interest credit of \$17,762.10 is applied, further reducing the lien to \$843,558. Lien self-released in September, 2022 .

Quarter 2 2021

Issue	Associated IRS Response	IRS Penalties & Fees	District Actions	Final IRS Determination
Failure to submit 941 Schedule B	IRS Letter received	None	Confirmed IRS receipt-Schedule B	A potential penalty of \$412,837 was removed upon receipt of Schedule B.

Quarter 3 2021

Issue	Associated IRS Response	IRS Penalties & Fees	District Actions	Final IRS Determination
Failure to submit 941 Schedule B	IRS Letter received	None	Confirmed IRS receipt-Schedule B	No penalty assessed

Quarter 1 2022

Issue	Associated IRS Response	IRS Penalties & Fees	District Actions	Final IRS Determination
Failure to submit 941 Schedule B	IRS Letter received	None	Confirmed IRS receipt-Schedule B	No penalty assessed

IRS Matter Accounting Summary

PENALTIES AND ABATEMENTS		
IRS Penalties Initially Levied		Amount
Q1 2020 Penalty		\$ (174,798.60)
Q1 2020 Penalty		\$ (539,370.11)
Q3 2020 Penalty		\$ (147,151.39)
Q4 2020 Penalty		\$ (355,396.27)
Q4 2020 Penalty		\$ (38,138.80)
Q4 2020 Penalty		\$ (54,781.74)
Subtotal Penalties Levied	(Note- reflects total original lien amount)	\$ (1,309,636.91)
IRS Penalties Abated and Interest Credited		Amount
Q4 2020 Penalty		\$ 355,396.27
Q4 2020 Penalty		\$ 38,138.80
Q4 2020 Penalty		\$ 54,781.74
Net Interest Credited by IRS	(credit applied prior to any payment made)	\$ 17,762.10
Subtotal Penalties Abated and Interest Credited		\$ 466,078.91
Penalties and Abatements Total	(reflects District payment amount to IRS 4/6/22)	\$ (843,558.00)
REBATES AND RECOVERIES		
Penalties Recovered from IRS		Amount
Q1 2020 Penalties		\$ 714,168.71
Q3 2020 Penalty		\$ 100,243.55
Subtotal Penalties Recovered		\$ 814,412.26

Interest Recovered from IRS		Amount
Q1 2020 Interest		\$ 30,027.73
Q3 2020 Interest		\$ 6,746.57
Subtotal Interest Recovered		\$ 36,774.30
Rebates and Recoveries Total		\$ 851,186.56
Difference- Rebates and Recoveries - Penalties and Abatements		\$ 7,628.56
RELATED COSTS AND RECOVERIES		
IRS Matter-Related Services	Purpose of Service	Amount
Law Offices of Anthony J. Brock	Investigative Services	\$ (15,589.00)
BSK (Counsel)	Employment/Personnel matters	\$ (22,369.50)
BSK (Counsel)	Tax matters	\$ (48,607.50)
TDWPM (Counsel)	Tax matters	\$ (32,797.00)
TDWPM (Counsel)	Employment/Personnel matters	\$ (12,003.75)
NawrockiSmith (Auditor)	Payroll Withholdings Audit	\$ (15,000.00)
Subtotal		\$ (146,366.75)
Miscellaneous Costs		Amount
Estimated Interest not Earned on monies expended (IRS, counsel, etc.)*		\$ (45,460.61)
Salary/Benefits Breakage (Interim Superintendent)		\$ 7,649.00
Subtotal		\$ (37,811.61)
Subtotal Related Costs and Recoveries		\$ (184,178.36)
Total Cost to District		\$ (176,549.80)
<p>*Note: this is a conservative estimate using all monies expended by the district in this matter. The estimated interest lost \$ (45,60.61) and interest paid by the IRS in the amount of \$36,774.30 nets to \$ (8,686.31).</p>		