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COMMITTEES:
Rules, Chair

Arizona State Senate

January 25, 2024

Dear Commissioner Werfel,

I am writing to request the timely reconsideration, and reversal, of the IRS' determination that the Arizona Families Tax Rebate is subject to federal income tax.

On May 10, 2023, the Arizona Legislature passed the Arizona Families Tax Rebate as part of the 2023 bi-partisan budget deal. On May 11, Governor Hobbs signed the rebate into law. The rebate provided taxpayers with dependents \$250 per dependent under age 17 and \$100 per dependent over 17, capped at \$750 per taxpayer. To qualify for the rebate, a taxpayer must have claimed the dependent credit in a prior year. Arizona's income limits for the dependent tax credit are the same as the income limits for the federal child tax credit.

On January 16, 2024, the Arizona Department of Revenue (AZDOR) released a statement notifying Arizona taxpayers who received the rebate that it must be reported in their federal adjusted gross income. In subsequent communications, AZDOR provided the following rationale from the IRS for this decision: "Arizona's rebate was issued after the COVID emergency was lifted," and "the income thresholds were too high to qualify under the general welfare doctrine which focuses on need."

I am deeply concerned about the tax burden this adds to over 700,000 Arizona families and troubled as to how the IRS' determination was made. Given my current understanding of the rationale provided to AZDOR, I provide the following considerations in reviewing this decision:

- 1. Arizona's rebate was signed into law during the COVID-19 public health emergency.** Governor Hobbs signed the rebate into law on May 11, 2023, the same day that President Biden and Secretary Becerra officially terminated the public health emergency. Given that the legislation was passed by the Legislature and signed by the Governor during the emergency, the rebate should be viewed in the same light as other State's pandemic-era relief payments.
- 2. Arizona's rebate appears to meet the parameters of the "General Welfare Exclusion."** IRS guidance from August 2023 states, "To qualify for the general welfare exclusion, state payments must be paid from a governmental fund, be for the promotion of general welfare (that is, based on the need of the individual or family receiving such payments), and not represent compensation for services." In directing payments from the State General Fund, and expressly stating its intention "to mitigate the harmful impacts of inflation" for "taxpayers with dependents," the bill appears to meet the stated parameters of the "General Welfare

Exclusion." The rationale that the rebate's income limits are "too high" also appears arbitrary and a contradiction to the federal child tax credit, which shares the same income limits as the rebate.

This is a matter of great importance to the more than 700,000 families that have received the rebate. A reversal of the IRS determination would provide great relief to those families and would ensure consistency in how the IRS has treated pandemic-era relief payments. Given that the upcoming tax filing season begins in less than two weeks, I ask your timely attention to this matter, and for the reasons outlined in this letter, I urge you to reverse the decision.

Respectfully,

A handwritten signature in black ink, appearing to read "Warren Petersen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Warren Petersen
President of the Arizona State Senate