



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER CO#118549

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DATE: 9/23/2014

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OF THE FISCAL YEAR 2013
REVIEW OF TAX OFFICE AD VALOREM REFUNDS**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court receive and file the Auditor's Report of the Review of Tax Office Ad Valorem Refunds during FY 2013.

BACKGROUND:

In accordance with Local Government Code and Texas Property Tax Code, the Auditor's Office performed an audit of ad valorem refunds sent to taxpayers during FY 2013 that were not approved by the Auditor's Office. The objective of the review was to determine whether refunds were valid and paid to the correct taxpayer for the correct amount.

FISCAL IMPACT:

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditors

PREPARED BY: S. Renee Tidwell
APPROVED BY:



TARRANT COUNTY

TARRANT COUNTY ADMINISTRATION BUILDING - ROOM 506
100 E. WEATHERFORD
FORT WORTH, TEXAS 76196-0103
817/884-1205
Fax 817/884-1104

S. RENEE TIDWELL, CPA
COUNTY AUDITOR
rtidwell@tarrantcounty.com

CRAIG MAXWELL
FIRST ASSISTANT COUNTY AUDITOR
cmaxwell@tarrantcounty.com

July 26, 2014

The Honorable Ron Wright, Tax Assessor-Collector
The Honorable District Judges
The Honorable Commissioners Court

Re: Auditor's Report – Review of Ad Valorem Refunds, FY2013

SUMMARY

In accordance with Local Government Code Chapter 115 and Texas Property Tax Code Section 31.11, we performed an audit of ad valorem refunds sent to taxpayers during fiscal year 2013 that were *not* approved by the Auditor's Office. The objective of the review was to determine whether refunds were valid and paid to the correct taxpayer for the correct amount. We selected 55 each of overpayment and recalculation refunds and observed instances of non-compliance with statutes and a number of errors. We also considered other issues observed during our on-going statutory review of refunds. *Although the amounts and instances of occurrences are small, we believe these errors could have a material impact on refunds under \$500 due to the large volume of transactions and dollars refunded to taxpayers.* Specifically:

- Observation 1 Certain refunds were not submitted to the Auditor's Office for review as required by statute.
- Observation 2 The application of overpayments to taxpayer accounts did not comply with statute.
- Observation 3 Manual changes made to taxpayer accounts resulted in errors.
- Observation 4 Automated systems did not always contain accurate and complete information.
- Observation 5 A number of transactions were posted to an inactive property tax account.
- Observation 6 One refund was not paid to the designated taxpayers listed on the refund application.
- Observation 7 System controls over the general ledger did not prevent duplicate checks.
- Observation 8 Attorney fees assessed and collected did not agree to supporting documentation.

Observations 3, 4, and 5 were previously reported to Commissioners Court on November 6, 2007. Attached is management's response to this report.

BACKGROUND

During fiscal year 2013, the Tax Office issued 26,281 refunds totaling \$44,085,582. This included 8,063 overpayments totaling \$976,554 and 12,896 recalculations totaling \$6,610,699 that *were not* reviewed by the Auditor's Office prior to sending to the taxpayers.

The Texas Property Tax Code governs the process of refunds, including both the role of the auditor and Tax Assessor-Collector. The responsibility of the Auditor's Office is defined by Section 31.11 of the Texas Property Tax Code, Refunds of Overpayments or Erroneous Payments, as follows:

"If a taxpayer applies to the tax collector of a taxing unit for a refund of an overpayment or erroneous payment of taxes, the collector for the unit determines that the payment was erroneous or excessive, and the auditor of the unit agrees with the collector's determination, the collector shall refund the amount of the excessive or erroneous payment..."

Tax Client is the system used to record property taxes due, payments received, and all other transactions related to property accounts. *Refund Trac* is the application developed to document the workflow of moving refunds through the review and approval process. The *Spindlemedia Integrated General Ledger (SMIGL)* is the Tax Office general ledger system used to record financial transactions, including taxpayer refunds.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1 - Certain refunds were not submitted to the Auditor's Office for review as required by statute.

Background

The tax code requires the auditor approve refunds of overpayments and erroneous payments. Because of the sheer volume of refunds, the Tax Office and the Auditor's Office agreed that the auditor would review refunds related to overpayments and erroneous payments for amounts over \$500. The statutes are silent regarding the auditor's review of refunds resulting from recalculations and court-ordered agreed judgments. Due to the complexity of these refunds, the Tax Office and the Auditor's Office agreed that the auditor would review recalculation refunds greater than \$5,000 and court-ordered agreed judgments greater than \$1,000.

Observation

As previously stated, the Auditor's Office and the Tax Office agreed that refunds exceeding pre-determined amounts require auditor review and approval. During our review, we found that refunds voided and reissued, regardless of the amount, were not presented to the Auditor's Office for review. Since the void and reissue of a refund is a manual process, these refunds were not processed through *Refund Trac*. Therefore, the refunds were not routed to the Auditor's Office for review and approval regardless of the amount. Due to the manual nature of this process combined with the lack of thorough management review, a risk of errors exists.

Recommendations

All refunds, including those voided and subsequently reissued, should be processed through *Refund Trac*. Furthermore, refunds in excess of the dollar threshold agreed upon by the Tax Office and the Auditor's Office should be routed to the Auditor's Office for review and approval.

Observation 2 – The application of overpayments to taxpayer accounts did not always comply with statute.

Background

Texas Property Tax Code, Section 31.11(b) states:

*“A taxing unit that determines a taxpayer is **delinquent** in ad valorem tax payments on property other than the property for which liability for a refund arises may apply the amount of an overpayment or erroneous payment to the payment of the **delinquent** taxes if the taxpayer was the sole owner of the property...”[emphasis added]*

Tax Office staff uses the “transfer” function to apply overpayments to taxes due.

Observation

During our review, we identified one overpayment that was applied to **current** taxes due. The taxpayer did not owe delinquent taxes. We also continue to observe this practice during our routine review of tax refunds. The Tax Code allows a taxing unit only to apply an overpayment to delinquent taxes.

Furthermore, the transfer process being used does not require staff to record information contained on the original paying instrument such as check number, receipt date, or payer's name and address making it very difficult to verify whether the transfer was accurate.

Recommendations

The practice of applying overpayments and erroneous payments to **current** taxes should be discontinued unless the Tax Office can provide the statutory authority to do so. Furthermore, the Tax Office should implement system-based procedures to ensure that all transfer transactions are adequately documented and reviewed. The Tax Office has previously acknowledged this deficiency and has requested programming modifications from the software vendor. Until those modifications are completed, we recommend the following:

1. Staff should discontinue using the transfer option for applying overpayments to delinquent taxes. Instead, the Reverse and Reapply option should be used until system modifications are completed.
2. Staff should record all information related to the overpayment including the payor's name, address, check number, and date of receipt.

Only limited personnel should be authorized to initiate transfers due to the risks associated with the transfer option. Management, or a secondary approval, should also be required for all transfers.

Observation 3 - Manual changes made to taxpayer accounts resulted in errors.

Background

The Tarrant Appraisal District (TAD) defines the “certified date” as the effective date for any changes. The certified date determines the delinquency date and interest due to taxpayers. Routinely, Tax Office refund staff manually enters information into *Tax Client* or *Refund Trac* such as the certified date, the reason code which indicates the type of refund, and other information required by court order, to expedite the refund.

Observations

Anytime manual processes are involved, a higher level of risk for errors exists. We tested 55 overpayment refunds less than \$500 and found a number of errors resulting from manual changes. As previously stated, we believe the effect of these errors could be material due to the large volume of transactions and dollars refunded to taxpayers although the individual amounts are small.

1. Refund staff entered the certified date incorrectly on eight accounts. Since this date was *not* entered correctly, interest was underpaid to seven taxpayers by amounts up to \$33.88.
2. Refund staff recorded an inaccurate reason code on two accounts. One of these accounts resulted in an overpayment of interest totaling \$9.04 to the taxpayer. The reason code, along with the certified date, determines whether interest should be paid on the refund and the appropriate routing and approval for the refund.
3. Accounting staff did not issue the refund per the instructions on supporting documentation. As a result, one refund in the amount of \$377.18 was issued to the wrong payee.

This condition was previously reported to Commissioners Court on November 6, 2007.

Recommendations

Ideally, a system change should be made to *Tax Client* that requires two electronic approvals by management prior to posting the manual change. If this system change is not possible, then we recommend that the Tax Office implement procedures requiring an independent secondary review of those refunds requiring manual changes, particularly those refunds not routed to the Auditor's Office for approval.

Furthermore, a system report should be generated that details manual changes. At least monthly, Tax Office management should use this report to compare the changes made manually to information received from TAD.

Although Tax Office Accounting has procedures to compare payment information entered into the system to the instructions on supporting documentation, errors can still occur. We recommend that the Accounting Director ensure that staff continues to follow these procedures and also perform an independent review to verify the accuracy of the payment information entered into the system.

Observation 4 - Automated systems did not always contain accurate and complete information.

Background

Tax Client is the accounts receivable system used to record property taxes due and payments received. *Refund Trac* is the system developed to document the workflow of moving refunds through the review and approval process, thus reducing paperwork. *Refund Trac* also calculates interest, if owed, and initiates the refunds for disbursement.

Observation

We found that *Tax Client* and *Refund Trac* did not consistently contain complete and accurate information. Specifically:

1. *Tax Client* incorrectly classified certain refunds resulting from a value change or exemption granted as an overpayment. Furthermore, staff does not consistently check the box indicating that the refund is a recalculation. As a result, interest may not be correctly paid to taxpayers. We identified 8 accounts where interest should have been paid to taxpayers for amounts up to \$86.28.
2. *Refund Trac* did not remain static once the refund process began. For example, there is no permanent record, or audit trail, of all actions. Also, *Refund Trac* continued to accrue interest after the refund had been paid.
3. Refund staff occasionally deleted notes from both *Tax Client* and *Refund Trac*. Staff also deleted a tax statement record from the *Tax Client* correspondence history. As a result, historical information regarding the work performed prior to approving or disapproving a refund does not exist.

This issue was previously reported to Commissioners Court on November 6, 2007.

Recommendations

We recommend that programming changes be made to *Refund Trac* so that information on taxpayer accounts remains static once the refund process begins. Furthermore, programming changes should be made to *Refund Trac* and *Tax Client* to prevent the deletion of records, including account notes. Specifically, staff should only have the ability to enter new notes rather than deleting previous notes.

Observation 5 – A number of transactions were posted to an inactive property tax account.

During our review, we observed that Tax Office staff posted transactions to an inactive property tax account. The property is owned by Tarrant County College (TCC) and has an absolute exemption. Therefore, no levy is assessed and collected.

Tax Office staff uses this inactive account to post the receipt of payments *not* owed to Tarrant County. For example, we observed a number of payments referencing Galveston County and Dallas County. The incorrect payments are typically refunded back to the credit card used to make the payment since most of the payments are receipts via credit card. However, we noted that the account currently shows a refund due to TCC for payments received in December 2011 and June 2012 in the amounts of \$95.00 and \$826.23, respectively. These refunds are *not* due to TCC. Rather, the refunds are due to individuals who made erroneous payments to Tarrant County.

This issue was previously reported to Commissioners Court on November 6, 2007.

Recommendations

Tax Office staff should discontinue the practice of posting transactions to an inactive property account. Management should design other procedures for recording payments received in error. For example, an “*unapplied cash*” account could be established to record these types of erroneous payments.

The Tax Office staff should also attempt to locate the individuals who made the erroneous payment to Tarrant County. If the individuals cannot be located, then the funds should be escheated in accordance with Chapters 71 and 72 of the Texas Property Code.

Observation 6 - One refund was not paid to the designated taxpayers listed on the refund application.

Background

The Texas Property Tax Code, Section 31.11 states that the taxpayer must apply for a refund due to an overpayment or erroneous payment. The Application for Tax Refund used by the Tax Office includes a space for the taxpayer to indicate who the refund should be payable to if the person is different from the person or company requesting the refund.

Observation

During our review, we observed one refund was *not* paid to the individuals listed on the refund application. The refund application dated January 2, 2013, showed the refund should be payable to three individuals, but the refund was made payable to only one individual. Per an account note in *Tax Client* dated November 5, 2012, a Tax Office employee had a verbal conversation with the title company stating that the refund should go to a single taxpayer, not the title company.

Recommendations

We recommend that Refund staff make refunds payable to the name(s) shown on the Application for Tax Refund form. If the payee shown on the application requires a change, the Tax Office should obtain a revised application.

Observation 7 – System controls over the general ledger did not prevent duplicate checks.

Background

To strengthen controls over the disbursement process, the Tax Office uses the positive pay services offered by JP Morgan Chase Bank. Tax Office Accounting procedures require that no checks are released or mailed until the bank returns a notification that the positive pay file contains no exceptions.

Observation

Six duplicate check numbers totaling \$14,621.52 were recorded in the Tax Office general ledger, known as SMIGL. The duplicate checks were identified by the bank during the positive pay process, and therefore, the checks were *not* mailed to taxpayers. The Tax Office prepared a journal entry reversing the amount of the duplicate checks.

We identified an additional 143 duplicate checks totaling \$109,236.02 that were prepared and subsequently voided prior to the issuance of this report. Again, these duplicate checks were identified by the bank during the positive pay process.

This condition was a result of a system issue within the Bank Reconciliation Module of SMIGL. The issue was communicated to Spindlemedia, the SMIGL software provider. On August 21, 2014, an upgrade of SMIGL was installed. The vendor has indicated that this upgrade will not allow duplicate checks to be issued.

No recommendation required.

Observation 8 - Attorney fees assessed and collected did not agree to supporting documentation.

Background

The Texas Property Tax Code¹ allows for an additional penalty to defray the cost associated with the collection of delinquent taxes if the taxing unit, or entity, has contracted with an attorney. The penalty imposed cannot exceed the amount of the compensation specified in the contract with the attorney.

Each of the taxing entities, including Tarrant County, cities, school districts, TCC, and John Peter Smith Hospital, contract with an attorney for the collection of delinquent taxes. Each contract includes the attorney's compensation for the collection of delinquent accounts. This compensation is stated as a "percentage" of the delinquent levy, penalty, and interest.

The tax code² further states that this compensation may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected.

¹ Texas Property Tax Code Sections 33.07, 33.08, and 33.11

² Texas Property Tax Code Section 6.30

Observation

During our review, we found that the percentage assessed and collected for attorney fees on behalf of TCC did not agree to the supporting documentation. The Tax Office received a resolution from TCC dated February 21, 2007, increasing the attorney collection penalty from 15% to 20%. The Tax Office assessed and collected 15% pursuant to the prior resolution.

We discussed this issue with the Tax Assessor-Collector. Based on the Tax Assessor-Collector's conversation with Linebarger, the resolution dated February 21, 2007, was not valid since it did not specify the additional penalty for personal property.³ Since Linebarger contracts with TCC, Linebarger was responsible for obtaining a corrected resolution from TCC. Since a signed and executed resolution was never provided to the Tax Office, the Tax Office continued to collect 15% on behalf of TCC for the attorney collection penalty. As a result, attorney collection penalties totaling more than \$1.2 million were not collected and remitted to Linebarger by the Tax Office. ***It should be noted that this uncollected amount has no financial impact to the County or the other taxing entities.***


Although the burden of responsibility of this error lies with Linebarger since they did not provide the corrected resolution to the Tax Office, the Tax Office is implementing procedures to assist in identifying these types of errors. The Tax Assessor-Collector indicated that a confirmation of the attorney collection penalty will be sent to each entity with the annual contract. The Tax Office will compare the percentage shown on the confirmation to the percentage recorded in *Tax Client*. If there is a discrepancy between the two, the Tax Office will contact the entity for resolution.

No recommendation required.

CLOSING REMARKS

We appreciate the responsiveness and cooperation of Tax Office staff during our review. Please call me if you have any questions regarding the contents of this report.

Sincerely,


S. Renee Tidwell, CPA
County Auditor

Attachment: Management's response

Team: Kim Trussell, Audit Manager
Sarah Prado, Senior Internal Auditor

Julie Hillhouse, Senior Internal Auditor

Distribution: Thomas Spencer, Tax Office Chief Deputy
Anita El Sakhaway, Accounting Director

James Pritchard, Associate Chief Deputy
Christy Smith, Refund Manager

³ Texas Property Tax Code Sec. 33.11



TARRANT COUNTY TAX OFFICE

100 E. Weatherford, Room 105 • Fort Worth, Texas 76196-0301 • 817-884-1850
taxoffice@tarrantcounty.com

RON WRIGHT
Tax Assessor-Collector

In God We Trust

September 12, 2014

Rene Tidwell, County Auditor
The Honorable District Judges
The Honorable Commissioner's Court
Tarrant County, Texas


Subject: Tax Office Response to Auditor's Report –Review of Ad Valorem Refunds, FY 2013

The subject report documents the significant Tax Office task of refunding over 44 million dollars in over 26,000 refund transactions.

As a result of the auditors review, several changes have already been initiated. The Tax Office has updated a working document titled, Refund Matrix, which may have contributed to problems identified in observation #1. A directive is being prepared to remind the staff that only delinquent taxes may be deducted from refund payments (observation #2). We have initiated changes in the void/reissue check processing procedure (observation #3) to include a secondary review in Accounting. Spindlemedia has made a change to the software module that will not allow duplicate checks to be printed (observation #7). A new procedure has been issued to avoid the attorney fee conflicts reported in observation #8. Processes and procedures are being review to determine the most effective way to address the remaining observations in the report.

Even though there are observations noted in the subject report, I believe the Tax Office refund process and system is operating in a way that results in tens of thousands of refunds getting to the right party on a timely basis. The observations contained in the report represent opportunities to improve our processes and procedures. We appreciate the effort of the Auditors to identify these opportunities.

Should you have any questions, please contact me or my Chief Deputy, Tom Spencer.


Ron Wright, PCC
Tax Assessor-Collector