



**SUFFOLK COUNTY
OFFICE OF THE COMPTROLLER
AUDIT DIVISION**

**John M. Kennedy, Jr.
Comptroller**

An Audit of the
Suffolk County Treasurer's Office
Administration of the Hotel and Motel Tax
For the Period
January 1, 2013 through December 31, 2013

**Audit Report No. 2015-07
Date Issued: July 15, 2015**

**SUFFOLK COUNTY
OFFICE OF THE COMPTROLLER**

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LETTER OF TRANSMITTAL

May 28, 2015

Mr. Barry Paul
Suffolk County Treasurer
Department of Finance and Taxation
330 Center Drive
Riverhead, NY 11901-3311

Dear Treasurer Paul:

In accordance with the authority vested in the County Comptroller by Article V of the Suffolk County Charter, a performance audit was conducted of the administration of the Suffolk County hotel and motel tax by the Suffolk County Treasurer's Office - Department of Finance and Taxation (Department). The period of audit was January 1, 2013 through December 31, 2013.

The audit objectives were to evaluate the Department's administration and collection of the hotel and motel tax and determine if the County is realizing the maximum revenue from the tax.

We conducted our audit in accordance with generally accepted government auditing standards, except for the external peer review requirement. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit revealed that the Department did not provide an optimum level of administration over the hotel and motel tax during the audit period and that the County is not realizing the maximum revenue from the tax, mostly due to the lack of staffing and inadequate technology.

Respectfully submitted,

Office of the County Comptroller
Division of Auditing Services

SUMMARY OF SIGNIFICANT FINDINGS

We conducted an audit of the Department's administration and collection of the County's hotel and motel tax for the period January 1, 2013 through December 31, 2013. Our audit revealed that the Department did not provide an optimum level of administration over the hotel and motel tax during the audit period and that the County is not realizing the maximum revenue from the tax due to the following conditions:

- The Department does not have adequate staff to sufficiently monitor the hospitality industry and enforce the hotel/motel tax law to ensure maximum compliance which may have resulted in the loss of tax revenue to the County (p. 5).
- Our audit revealed that the Department has not been aggressively pursuing delinquent filers who owe considerable amounts of back taxes to the County; we found 6 delinquent cases that were unresolved and never referred for legal action (p. 5).
- Investigative measures were not regularly performed by the Department to ensure that the population of registered establishments is complete. As a result of our audit procedures, we identified two hotel/motel establishments that are not registered with the Department; one of the establishments had never collected or remitted hotel and motel tax and the other claimed to be remitting hotel and motel tax under the registration of a sister hotel (p. 5).
- The Department employs an inefficient manual process for the administration and collection of the hotel and motel tax with very limited automation (p. 6).
- The computer system currently used by the Department to record and monitor tax remittances is not sufficiently designed to provide adequate information and produce customary management reports (p. 6).
- The Department does not utilize electronic banking practices for the processing of cash receipts (p. 6).
- Fines, penalties and interest currently imposed by the County's hotel/motel tax law are too low and therefore ineffective towards deterring non-compliance (p. 7).

BACKGROUND

In the Laws of 1992, New York State authorized Suffolk County to impose a hotel and motel tax through the adoption of a local law to provide a dedicated source of funds for the promotion of tourism. This law is codified in Section 1202-o of the New York State Tax Law and Chapter 523, Article II of the Suffolk County Code. The tax is imposed upon persons occupying hotel and motel rooms in Suffolk County for periods of less than 30 days. The law directs that tax revenue be distributed to a contract agency for the promotion of tourism and to support cultural programs and activities relevant to the enhancement of tourism in Suffolk County.

The tax was originally set at .75% of the per diem rental rate (exclusive of sales tax) actually imposed for each hotel or motel room. The law was reauthorized in 1996, 2000, 2005 and most recently in 2009, by Local Law No. 34-2009, which in addition to increasing the tax rate to 3% called for the distribution of revenue in a more specified manner.

Administration and collection of the tax is assigned by law to the Suffolk County Treasurer who oversees the Department of Finance and Taxation (Department). During the audit period, the hotel and motel tax administration and collection functions were performed by two department employees; a Principal Account Clerk and a Chief Accountant. Upon the retirement of the Chief Accountant in November 2013, a Senior Accountant¹ assumed the responsibilities of supervising the hotel/motel function. These employees were responsible for handling all tax inquiries and the collection and administration of tax revenue. Additionally, the Department reported tax revenue to various County entities on a monthly basis.

In 2013, hotel and motel tax revenue per Department records and as recorded in County's Integrated Financial Management System (IFMS) amounted to \$8,857,041.

¹ The Senior Accountant was promoted to Principal Accountant in December 2014 and continues to supervise the hotel/motel function.

SCOPE AND METHODOLOGY

In order to accomplish the objectives as stated in the Letter of Transmittal (p. 1), we performed the following procedures:

- Reviewed applicable State and County laws, regulations and legislative resolutions.
- Reviewed prior audit reports to determine the Department's compliance with prior audit recommendations.
- Reviewed applicable Budget Review Office reports for relevant information.
- Interviewed departmental personnel responsible for the administration and collection of the hotel and motel tax.
- Reviewed the computer systems utilized by the Department
- Prepared a schedule of bank deposits for each month of the audit period from the related bank statements. Traced the tax remittances to the bank deposits to verify receipt and deposit of funds.
- Obtained a Crystal Report of the hotel/motel tax revenue recorded in IFMS for the audit period and traced the revenue to both the amount recorded in the Database maintained by the Department and the amount reported in the Treasurer's Monthly Report of Hotel/Motel Tax Remittances.
- Judgmentally selected the third quarter of the hotel/motel reporting cycle (September, October and November, 2013) for testing of tax revenue. This represents the highest revenue quarter due to the seasonal nature of the Suffolk County hospitality industry.
- Obtained a list of the hospitality establishments subject to inspection by the Department of Health Services and compared it to the list of registered establishments maintained by the Department. Investigated all differences to determine if there were any hotel/motel establishments not registered with the Department.

AUDIT FINDINGS

As a result of our audit of the Department's administration and collection of the hotel and motel tax for the period January 1, 2013 through December 31, 2013, we have identified the following conditions:

The Department does not have adequate staff to sufficiently monitor the hospitality industry and enforce the hotel/motel tax law to ensure maximum compliance which may have resulted in the loss of tax revenue to the County. Due to budget constraints, the Department assigned minimal staff to administer the tax which included one Principal Account Clerk for approximately 25% of the time and one Principal Accountant for approximately 10% of the time. With this limited staff, the Department does not regularly perform functions to proactively monitor filers and identify non-filers. Furthermore, the Department does not audit the books and records of establishments as authorized by the law and we question their ability to perform audits due to the lack of specialized staff (auditors). During the audit period the County had approximately 350 registered hotel and motel establishments including 14 on Fire Island. However, a cursory search of the internet for Suffolk County hospitality establishments through websites such as Travelocity, Flip Key and AirBnB, suggests that there are many more establishments, including bed and breakfasts, guesthouses, and tourist homes being rented for periods under 30 days on Fire Island. We believe that through compliance and enforcement activities such as field visits to establishments, performing audits of books and records and monitoring the internet and trade related advertisements, a wealth of untapped tax revenue can be realized.

Our audit revealed that the Department has not been aggressively pursuing delinquent filers who owe considerable amounts of back taxes to the County; we found 6 delinquent cases that were unresolved and never referred for legal action. In response to our inquiry, the Department informed us that they have been working with several problem filers that owed taxes in some cases dating back to 2007, by sending repeated demand letters; however, they had not referred the establishments to the County Attorney's Office or the District Attorney's Office for legal action as provided for in Chapter 523-11 of the Suffolk County Code.

Investigative measures were not regularly performed by the Department to ensure that the population of registered establishments is complete. As a result of our audit procedures, we identified two hotel/motel establishments that are not registered with the Department; one of the establishments had never collected or remitted hotel and motel tax and the other claimed to be remitting hotel and motel tax under the registration of a sister hotel. We informed both establishments of their obligations under the hotel/motel law and requested that the Department send registration applications to them immediately. Both establishments will be evaluated for back taxes, penalties,

interest and fines due to the County. In addition, both establishments will be considered for a full audit of their books and records. It should be noted, that these establishments were discovered by a simple match of the list of hospitality establishments subject to inspection by the Department of Health Services to the list of registered establishments maintained by the Department. A review of the current list of registered hotel/motel establishments reveals that a segment of the hospitality market is missing; tourist homes, guest houses, cottages and “apartments” that rent rooms for periods less than 30 days. If investigative measures were regularly employed, such as internet/social media searches, site visits, cold calling and monitoring of industry publications, we believe the number of registered establishments could be increased significantly.

The Department employs an inefficient manual process for the administration and collection of the hotel and motel tax with very limited automation. Each quarter the Department sends blank remittance forms to registered hotel/motel establishments by U.S. mail. As the returns are received, the information is manually entered into a computer database. If a payment is late, penalties and interest are manually calculated and demand letters are formulated and mailed to the establishments. Checks are the only form of payment currently accepted by the Department and when received they are batched with a deposit slip and taken to the bank by courier for deposit.

The computer system currently used by the Department to record and monitor tax remittances is not sufficiently designed to provide adequate information and produce customary management reports. The system can produce a vendor payment history and quarterly exception report of establishments that have not filed a tax remittance however, it cannot provide a complete list of amounts due over a period of several quarters for a particular vendor or all vendors (i.e. aging report), nor can it identify and report a balance due if the tax was miscalculated or underpaid. Furthermore, the system is not programed to calculate penalties and interest or produce demand letters in the case of insufficient payments. Because of these weaknesses, the Department maintains a manila folder for each quarter to track open/unpaid tax issues.

The Department does not utilize electronic banking practices for the processing of cash receipts. We noted that tax payments are processed manually by batching checks with a deposit slip and sending them to the bank by courier. The implementation of a remote deposit system which uses scanners to transmit the image of a check to the bank would result in faster deposits and eliminate trips to the bank.

Fines, penalties and interest currently imposed by the County's hotel/motel tax law are too low and therefore ineffective towards deterring non-compliance. The State hotel/motel law authorizes "interest and penalties... as may be provided for by local law." To that end, the County's law sets forth that failure to file a return or late filing of a return is subject to a **5%** penalty of the tax due the first month plus interest at the rate of 1% for each additional month. By contrast, Section 1145 of NYS Tax Law which applies to sales and use tax remittances contains higher and more comprehensive consequences for non-compliance; failure to file a return or late filing of a return is subject to a **10%** penalty of the tax due the first month plus 1% for each additional month. In addition, the State assesses a minimum penalty of \$50 for late filing of a return, even if no tax is due for the reporting period which the County law currently does not require.

RECOMMENDATIONS

Based on the above findings, we recommend the implementation of the following:

- Sufficient staff should be assigned to the hotel/motel tax function to allow for the proper administration of the tax and to optimize revenue. Staff should perform investigative procedures to ensure that all eligible establishments are registered and periodic audits of books and records should be conducted to verify the propriety of tax payments.
- Delinquent payers should be dealt with in an aggressive manner to ensure that the County realizes the maximum tax revenue. A zero tolerance policy will ultimately act as a deterrent to non-compliance. The Department has informed us that since the inception of our audit, two delinquent cases have been referred to the District Attorney's Office for legal action.
- The implementation of an on-line electronic registration, filing and payment system which will facilitate more timely remittances. In addition, it will reduce the risk of error, loss and theft due to the reduction of paperwork and manpower necessary to process and administer the tax resulting in cost savings to the County. The Department has informed us that they recently began a process with the County's Department of Information Technology to design and implement such a system.
- The database should be updated or replaced by a system capable of meeting the Department's needs. The ideal system would be an on-line electronic filing system linked to software capable of maintaining an adequate record of tax remittances, calculate the proper tax, interest and penalties due, produce demand letters, and provide customary management tools such as, aging reports, vendor history reports and gap detection reports, etc.
- The implementation of a remote deposit system using scanners to transmit the image of a check to the bank for deposit. Such a system would eliminate the need to send employees to the bank which could pose a safety issue and reduces the risk of error, theft or loss occurring.
- Increase fines, penalties and interest currently set forth in the County hotel and motel law to mirror those described in Section 145 of New York State Tax Law to deter non-compliance.

CONCLUSION

Decreasing sales tax revenue and lingering economic uncertainty is prompting government to become more responsible, efficient and innovative. More cost-effective measures need to be pursued and implemented. The aforementioned recommendations, individually and in the aggregate, will work toward increasing compliance with the hotel and motel tax laws and ultimately increase revenue to the County. Inasmuch as the County would not like to increase taxes of any sort, enforcement of the hotel and motel tax law and the sales tax law in general is essential toward increasing revenue and creating a level playing field for all vendors. It is our duty to provide such assurance to Suffolk County taxpayers and businesses alike.

APPENDICES

APPENDIX A



SUFFOLK COUNTY TREASURER

330 CENTER DRIVE RIVERHEAD, N.Y. 11901-3311

Telephone: (631) 852-1500 FAX (631) 852-1507

**BARRY PAUL
COUNTY TREASURER**

**DOUGLAS W. SUTHERLAND
CHIEF DEPUTY**

**DIANE M. STUKE
DEPUTY**

June 12, 2015

Mr. Frank Bayer, CPA
Executive Director of Auditing Services
H. Lee Dennison Building
100 Veterans Memorial Highway
P.O. Box 6100
Hauppauge, NY 11788-0099

RE: Suffolk County Hotel Motel Tax Administration Audit

Dear Mr. Bayer:

We are in response to your draft Audit Report covering the Administration of the Suffolk County Hotel Motel Tax for the period of January 1, 2013 through December 31, 2013. The Department offers the following comments for each of the audit findings and recommendations.

The Department does not have adequate staff to sufficiently monitor the hospitality industry and enforce the hotel/motel tax law to ensure maximum compliance which may have resulted in the loss of tax revenue to the County.

Recommendation:

Sufficient staff should be assigned to the hotel/motel tax function to allow for the proper administration of the tax and to optimize revenue. Staff should perform investigative procedures to ensure that all eligible establishments are registered and periodic audits of books and records should be conducted to verify the propriety of tax payments.

Department Response:

The Department agrees with the recommendation. Sufficient staffing to ensure proper administration of the Hotel Motel Tax Program will optimize the revenue recognized. Proper staffing added to enforce compliance with the law with regards to registrations, submissions of tax collected, and periodic audits of establishment books will be in the best interest of the program. Note: The staffing information within the Background and Findings sections of the draft are in need of modification to reflect the proper staffing assigned to this task during the audit period. From January 1, 2013 through November 30, 2013, the program was administered by a Chief Accountant and a Principal Account Clerk. Upon the retirement of the Chief Accountant, a Senior Accountant replaced the Chief Accountant's role for the month of December 2013. We are also not sure of the significance of noting the promotion of the Senior Accountant to Principal Accountant eleven (11) months after the audit period.

Our audit revealed that the Department has not been aggressively pursuing delinquent filers who owe considerable amounts of back taxes to the County; we found 6 delinquent cases that were unresolved and never referred for legal action. In response to our inquiry, the Department informed us that they have been working with several problem filers that owed taxes in some cases dating back to 2007 by sending repeated demand letters; however, they had not referred the establishments to the County Attorney's Office or the District Attorney's Office for legal action as provided for in Chapter 523-11 of the Suffolk County Code.

Recommendation:

Delinquent payers should be dealt with in an aggressive manner to ensure that the County realizes the maximum tax revenue. A zero tolerance policy will ultimately act as a deterrent to non-compliance. The Department has informed us that since the inception of our audit, two delinquent cases have been referred to the District Attorney's Office for legal action.

Department Response:

The Department agrees with the recommendation. Beginning in April 2015, the Department has been more aggressive with delinquent establishments. The Department has conducted a complete overhaul of the correspondence that is mailed to these establishments as a result of non-filing or non-payment of their quarterly taxes. The department has also applied fines in the amount of \$100 to these establishments as afforded in Chapter 523 of the Suffolk County Code. The department currently has four cases that have been turned over to the District Attorney's office and has collected a total of \$300 in fines from several delinquent accounts.

Investigative measures were not regularly performed by the Department to ensure that the population of registered establishments is complete.

Department Response:

As stated in the first audit finding of the draft report, the unit lacked the adequate staff to perform regular investigative actions on the hospitality industry.

The Department employs an inefficient manual process for the administration and collection of the hotel and motel tax with very limited automation.

The computer system currently used by the Department to record and monitor tax remittances is not sufficiently designed to provide adequate information and produce customary management reports.

Recommendations:

The implementation of an on-line electronic registration, filing and payment system which will facilitate more timely remittances.

The database should be updated or replaced by a system capable of meeting the Department's needs. The ideal system would be an on-line electronic filing system linked to software capable of maintaining an adequate record of tax remittances, calculate the proper tax, interest and penalties due, produce demand letters, and provide customary management tools such as, aging reports, vendor history reports and gap detection reports, etc.

Department Response:

The Department agrees with the recommendation. In April of 2015, the department engaged the resources of the Suffolk County Department of Information Technology to develop a new program that would comply with all the recommendations of the Audit Report. This system will not only improve the department's ability to administer the Hotel/Motel Tax Program but also be web-based to allow on-line access for establishments for registrations, filings, and eventually payments.

The Department does not utilize electronic banking practices for the processing of cash receipts.

Recommendation:

The implementation of a remote deposit system using scanners to transmit the image of a check to the bank for deposit. Such a system would eliminate the need to send employees to the bank which could pose a safety issue and reduces the risk of error, theft or loss occurring.

Department Response:

The Department is currently engaged in a Pilot program using remote deposit system for our property tax payments. Upon completion of a successful pilot program, the Department will explore using remote deposit for all County revenue processing to include Hotel/Motel Tax. The implementation of an on-line payment system within the new system will also address this finding. Note: While all Hotel/Motel payments have been received via check at this point, other county revenues to include but not limited to property taxes are received in cash as well as checks and therefore the need for a daily bank deposit run would not be eliminated. The Department only uses Bonded Couriers for Bank runs and in the event of large cash deposits, the Couriers are escorted by the Suffolk County Sheriff's Department.

Fines, penalties and interest currently imposed by the County's hotel/motel tax law are too low and therefore ineffective towards deterring non-compliance.

Increase fines, penalties and interest currently set forth in the County hotel and motel law to mirror those described in Section 145 of New York State Tax Law to deter non-compliance.

Department Response:

As previously stated, since April of 2015, the department has begun to invoke fines for non-filing and non-payment as afforded by the current law of Chapter 523 of the Suffolk County Code. The department currently assesses a fine of \$100 per offense with the authorized ability to charge up to \$1,000 in fines and/or prosecution to include up to 1 year in jail. It is the position of current administration to monitor and enforce the fines, penalties, and interest as set forth in the law.

If you would like to further discuss our responses or have any questions, please do not hesitate to contact me @ (631)852-1500.

Sincerely,



Barry S. Paul
Treasurer

Cc: Douglas Sutherland, Chief Deputy Treasurer
Todd Van Scoy, Principal Accountant

APPENDIX B

Exit Conference Report

Auditee: Suffolk County Treasurer's Office – Department of Finance and Taxation

On June 12, 2015, the Department submitted a written response to our report in which they concurred with all of our findings and indicated that they have started implementing some of our recommendations, therefore, no modification of the report is necessary. However, it should be noted that the lack of adequate staffing continues to be an issue in achieving adequate corrective action.

We extend our gratitude to the Department for their cooperation during the audit and for taking corrective action to address the conditions identified in our report.