



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER

PAGE 1 OF

8

DATE: 8/5/2014

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OF THE REVIEW OF DEFERRED PROPERTY TAX ACCOUNTS**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court receive and file the Auditor's Report of the Review of Deferred Property Tax Accounts.

BACKGROUND:

In accordance with Chapter 115 of the Local Government Code, the Auditor's Office performed a review of ad valorem accounts with a deferred status. The objective of the review was to determine whether interest, attorney fees, and penalties were calculated and collected accurately on ad valorem accounts with deferred status as of December 31, 2013.

FISCAL IMPACT:

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditor

PREPARED BY: S. Renee Tidwell
APPROVED BY:



TARRANT COUNTY

TARRANT COUNTY ADMINISTRATION BUILDING - ROOM 506

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June 15, 2014

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

RE: Auditor's Report – Review of Deferred Property Tax Accounts

SUMMARY

In accordance with Chapter 115 of the Local Government Code, the Auditor's Office performed a review of ad valorem accounts with a deferred status. The objective of our review was to determine whether interest, attorney fees, and penalties were calculated and collected accurately on ad valorem accounts with deferred status as of December 31, 2013. As a result of our review, we found the following:

Observation 1 *Tax Client* (the system used to record property taxes due, payments received, and all other transactions related to property accounts) did not calculate attorney fees and interest on deferred accounts accurately.

Observation 2 Deferred accounts information was not always entered into *Tax Client* accurately.

Observation 3 The Auditor's Office was granted improper access to *Tax Client*.

It should be noted that the Tarrant Appraisal District (TAD) is responsible for granting tax deferrals. Therefore, the scope of this audit does not consider whether deferrals were granted in accordance with statute. We observed that TAD did not always provide information related to deferred accounts to the Tax Office in a timely manner. For example, we identified one account that was granted a deferred status but TAD did not communicate to the Tax Office until one year after the deferral period began. As a result, this caused the account to remain in delinquent status. We also identified ten accounts whereby the *ending* deferral date was not communicated to the Tax Office in a timely manner. Eight of these accounts were communicated between 2 and 5 years after the deferral period ended. The other two accounts were communicated three and eight months after the deferral period ended.

Attached to this report is a written response from the Tax Office.

BACKGROUND

Section 33.06(a) of the Texas Property Tax Code allows for the deferred collection of taxes of the elderly and disabled persons. Specifically:

“An individual is entitled to defer collection of a tax, abate a suit to collect a delinquent tax, or abate a sale to foreclose a tax lien if the individual:

- (1) is 65 years of age or older or is disabled as defined by Section 11.13(m); and
- (2) the tax was imposed against property that the individual owns and occupies as a residence homestead.

To obtain a tax deferral, an individual must submit a request to TAD. Upon TAD's approval, TAD sends a *Tax Deferral Report* via a weekly email to the Tax Office. This report lists new and stopped deferred accounts, and also any changes to existing deferred accounts. The Tax Office uses this report to *manually* enter the appropriate start and end dates of deferred accounts and any appropriate changes into *Tax Client*, the system used to record property taxes due, payments received, and all other transactions related to property accounts.

As of December, we identified 1,902 deferred accounts recorded in *Tax Client*. Since 2000, the County assessed and collected attorney fees totaling \$2,051,041 and interest totaling \$2,868,049 on deferred accounts.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1 Tax Client did not calculate attorney fees and interest on deferred accounts accurately.

During our review, we found that attorney fees and interest on deferred accounts were not calculated correctly. It should be noted that we could not determine the full magnitude of this issue since these fees are not calculated until payment is collected on the deferred account. The conditions described below occurred because *Tax Client* is not programmed to calculate attorney fees and interest on deferred accounts in accordance with the Tax Code. Specifically:

- a) *Attorney fees were incorrectly assessed and subsequently paid by taxpayers.* We identified 135 accounts where attorney fees totaling \$27,238.25, 1.33% of the total collected, were incorrectly assessed and paid by taxpayers for tax years 2000 through 2012. Of the 135 accounts, 63 accounts were overpaid by more than \$100 with the largest overpayment being \$2,552.19.

According to statute¹, attorney fees should *not* be imposed during the deferral period. IT staff identified and communicated this issue to Tax Office management in September 2012. To date, no corrective action has been taken.

¹ Texas Property Tax Code, Section 33.06(d)

- b) Interest was incorrectly assessed and subsequently paid by taxpayers for expired deferred accounts. Of the 31 accounts selected for testing, we found two taxpayer accounts that were underpaid. One account was underpaid by \$2,659.05, and the second taxpayer account was underpaid by \$87.98. Four other accounts resulted in differences of less than \$10.

According to statute², taxpayers get a reduced interest rate on taxes owed during the deferral period. If a taxpayer does not pay the delinquent taxes by the 181st day after the deferral period expires, the interest rate reverts back to the full interest rate. Therefore, the taxpayer loses the benefit of the reduced interest rate on taxes owed during the deferral period. For those accounts whereby payment is made after the 181st day, *Tax Client* does not revert back to the full interest rate.

Tax Office management consulted with Linebarger Goggan Blair & Sampson (LGBS), the County's tax attorneys. LGBS provided an opinion stating that when the abatement period ceases to exist, then there is no longer any interest savings. Therefore, the taxpayer is responsible for the full amount of the interest.

Furthermore, two refunds related to deferred accounts were processed incorrectly. These refunds were provided to the Auditor's Office as part of our regular monitoring of Tax Office refunds. The first refund, in the amount of \$6,223.95, was presented to the Auditor's Office in November 2013. According to our calculations, no refund is due to the taxpayer. Rather, the taxpayer *owes* additional taxes totaling \$2,973.34. The second refund, in the amount of \$2,452.74, was presented to the Auditor's Office in December 2013. We recalculated the amount to be refunded to the taxpayer is \$846.53. We communicated both of these issues to Tax Office management in November and December, respectively. As of the date of this report, both of these issues remain outstanding.

Recommendations

Tax Office management should work with the County's tax attorneys and Spindlemedia, the Tax Office's software provider, to ensure that *Tax Client* calculates attorney and interest fees in accordance with relevant statutes. Any required programming changes should be implemented immediately.

Management should also consult with the District Attorney's Office regarding the resolution of amounts underpaid and overpaid by taxpayers.

We also recommend that the Tax Office take corrective action and bill the taxpayer for the additional taxes owed and refund the taxpayer for the amount overpaid.

² Texas Property Tax Code, Section 33.06(d)

Observation 2 *Information related to deferred accounts was not always entered into Tax Client accurately.*

Information related to deferred accounts were not always entered into *Tax Client* accurately. Specifically:

- a) Thirteen (13) property tax accounts in *Tax Client* showed a deferred exemption, but did not include beginning and ending deferral dates. As a result of these missing dates, one taxpayer overpaid taxes totaling \$1,218.96 and a second taxpayer overpaid taxes totaling \$805.34. The remaining 11 accounts could result in either under- or overpayments from taxpayers.
- b) Seven hundred eighty-seven (787) accounts have deferral dates in *Tax Client*, but no deferred exemption code. As a result, it is difficult to identify all deferred accounts recorded in *Tax Client*.

These conditions were the result of human error since this information is manually entered by Tax Office staff using *Tax Deferral Report* provided by TAD.

Recommendations

We recommend that the Tax Office refund the amounts overpaid to the appropriate taxpayers. Furthermore, Tax Office management should establish written procedures related to the processing of deferred accounts and ensure that staff is adequately trained. Due to the manual nature of this process, we also recommend an independent review to ensure that the deferred accounts are set up properly in *Tax Client* and that any subsequent changes are entered correctly.

To reduce the risk of human error, management should have discussions with TAD about the possibility of receiving information related to deferred accounts on the monthly electronic NCD (New/Change/Delete) file.

Observation 3 *Auditor's Office was granted improper access to Tax Client.*

The Auditor's Office requested "read-only" access to *Tax Client*. During the audit, we found that the auditors had the ability to generate tax statements. We did not attempt to determine what other functions could be performed within *Tax Client*.

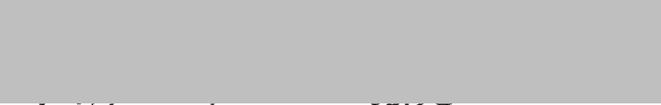
Recommendation

During the audit, we communicated this issue to the Tax Office and they immediately changed the auditors' security profiles. However, management should perform a thorough review of security profiles to ensure that privileges granted to individuals are appropriate for their job responsibilities and that proper segregation of duties exists. Furthermore, management should ensure that those individual granted read-only access cannot perform any transactions.

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. Renée Tidwell, CPA
County Auditor

Attachment:
Management's response

Audit Team:
Kim Trussell, Audit Manager
Melissa Askey, Senior Internal Auditor
Sarah Prado, Senior Internal Auditor
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RON WRIGHT
Tax Assessor-Collector

July 25, 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 Deferred Property
Tax Accounts

The Tarrant County Tax Office allows for deferred collection of property taxes for the elderly and disabled according to Section 33.06(a) of the Texas Property Tax Code.

The Property Tax Code gives sole authority to the Tarrant Appraisal District (TAD) to determine tax deferral eligibility for Tarrant County property owners. In order to be accurate and complete, TAD must provide timely, correct and complete information to the Tax Office.

Most of the problems identified in the audit exist because TAD does not send all deferral information electronically. It is common knowledge that manual processes can result in errors and delays. Within the next 10 days, I will ask TAD to send deferral information electronically. I will ask that TAD make it a policy to send all updates electronically.

I have requested a review of the existing processes with the goal of updating or creating procedures, templates and approvals necessary to correct the deferral billing obligation. The revised process will include better communication with TAD for missing or incomplete data. I am focusing on completion of this task within the next 30 days.

I have had one meeting to date with our software provider, Spindlemedia, to discuss incorporating electronic updates from TAD. I will continue these discussions to include a review of interest calculations when a deferral is not paid by the due date. The subject audit identified a conflict in the interpretation of the statute by Spindlemedia and others. I will address that issue with Spindlemedia and include our delinquent collection attorneys as appropriate.

I will initiate a review to ensure user account profiles do not contain conflicting or inappropriate privileges. I expect completion of this review within the next 60 days.

The subject audit report identifies accounts where attorney collection fee was collected in error. Each account will have to be reviewed to determine that attorney fees were not applicable under the code. Once confirmed, each account must be processed and approved according to the property tax code. A firm date for completion is hard to

estimate as the payer must respond before a refund is approved. I would expect these refunds can be processed within the next 90 days; but it could take much longer. The audit also identifies errors in billing related to the amount of interest due. Some reported errors are associated with differences in the interpretation of the law. After agreement can be reached, each account will be reviewed with the goal of billing additional amounts due; if appropriate.

Even though the volume is less than 2,000 accounts it is important that each in the system be handled accurately and promptly.

I appreciate the ongoing review of Tax Office operations by the County Auditor's office.

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

A rectangular area of the document has been redacted with a solid grey fill, obscuring the signature of Ron Wright.

Ron Wright, PCC
Tarrant County Tax Assessor-Collector