AUDITOR'S REPORT

HARRIS COUNTY
TAX ASSESSOR & COLLECTOR'S OFFICE
PROPERTY TAX COLLECTIONS
THREE MONTHS ENDED AUGUST 31, 2014

June 3, 2016

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BARBARA J. SCHOTT, C.P.A.
HARRIS COUNTY AUDITOR

June 3, 2016

Mr. Mike Sullivan
Harris County Tax Assessor & Collector
1001 Preston, 1st Floor
Houston, Texas 77002

RE: Procedures applicable to the various Tax Assessor & Collector property tax collections for the three months ended August 31, 2014

As required by Local Government Code §115.002 and §115.0035, the Compliance Audit Department examined the daily and monthly reports presenting the property tax collections submitted by the Tax Assessor and Collector's Office (Tax Office).

The procedures performed included:

- Using Computer Assisted Audit Techniques (CAATS) to selectively test transactions and determine whether they were properly recorded in the Appraisal & Collection Technologies (ACT) System.

- Using CAATS to selectively test transactions and determine that penalty, interest and attorney fees were properly assessed and collected.

- Using CAATS to selectively test transactions to determine accuracy and timeliness of deposit.

The work performed required our staff to exercise judgment in completing the scope objectives. As the procedures were not a detailed inspection of all transactions, there is a risk that error or fraud was not detected during this engagement. The official therefore, retains the responsibility for the accuracy and completeness of their financial records and ensuring sufficient controls are in place to detect and prevent fraud.

The enclosed Auditor's Report presents the significant issues identified during our procedures, recommendations developed in conjunction with your staff, and any actions you have taken to implement the recommendations.

Mr. Mike Sullivan
Harris County Tax Assessor & Collector

We appreciate the time and attention provided by you and your staff during our procedures.

Sincerely,

Barbara J. Schott
County Auditor

cc: District Judges

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ISSUES AND RECOMMENDATIONS

Penalties and Interest on Prior Year Taxes

Background

Property taxes are due upon receipt of the tax statement and delinquent if not paid before February 1 (delinquency date) of the following year in which imposed unless otherwise designated on the tax statement. Texas Statues Tax Code (Tax Code) §33.01, *Penalties and Interest (a)* states, "a delinquent tax incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of twelve percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent."

Issue

Current Tax Office processes calculate penalties and interest for accounts containing properties that have prior year taxes not certified until after July 1st of the current tax year using a different rate than accounts that were timely certified. As a result, 26 of 128 (20%) property tax payments examined did not have the appropriate penalties and interest applied in accordance with Tax Code §33.01. Not applying the appropriate penalties and interest results in financial loss.

Tax Office Management informed us that the treatment of these types of accounts is due to prior legal advice which substantiates the Tax Office's interpretation that the Property Tax Code only addresses current tax year and corrected tax bills and is silent as to prior year(s) delinquency dates or penalty and interest calculations. Tax Office Management also stated that they are required to fulfill the legislative intent of those sections and believed the current treatment of these types of accounts was satisfying this requirement.

Recommendation

Tax Office Management should provide documentation verifying the legal opinion obtained substantiating that this is the proper treatment of these accounts.

Management Response

We agree with the Auditor's comments that an opinion or advisory would provide clarity on the matter and we have consulted with the County Attorney's office. Accordingly, we agree with the recommended method of calculating penalties and interest on prior year taxes not levied until the current tax year due to late-certification by the Appraisal District. Currently, the number of late-certified, delinquent accounts compose less than .085% of the total number of delinquent accounts. Pursuant to §33.01 of the Texas Tax Code, our process will recognize that all taxes that are delinquent on July 1, regardless of the date of their certification, will incur a total penalty of twelve percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent.

ISSUES AND RECOMMENDATIONS

Post Payment Changes to Account Information

Background

Tax Code Chapter 33, *Delinquency*, governs the penalties, interest and additional fees (such as attorney fees) which will be incurred by a taxpayer should the taxes remain unpaid subsequent to the delinquency date. ACT calculates these penalties, interest and additional fees based upon information, such as delinquency status or deferral dates (key fields), entered into the ACT system. Subsequent changes to account information will not necessarily automatically remove or correct previously entered or calculated information.

Issue

The Tax Office does not have sufficient controls in place to identify accounts that have changes or corrections to key fields subsequent to a payment being applied to the account. As a result, 7 of 126 (5.5%) payments examined are either overpayments or underpayments due to changes in key fields after the payment was applied. Not identifying all effects of changes to key fields could result in a loss of revenue or create an unrecorded liability as a result of a refund due to the customer.

Tax Office Management informed us that they are currently working with ACT system personnel to alter the manner in which ACT handles changes to key fields.

Recommendation

Changes made to key fields after a payment has been made should be reviewed to determine if those changes affect the calculated penalty and interest. The Tax Office should develop a control to monitor and identify accounts in which changes are made to key fields subsequent to a payment occurring.

Management Response

We agree with the Auditor's comments and the following actions will be taken to improve the manner in which post payment changes to property information affects the calculation of penalties and interest on certain accounts. Specifically, we will submit an ACT Programing Request Change to add an additional recap/report that will identify the applicable accounts that have had key fields changed after a payment has been made.

ISSUES AND RECOMMENDATIONS

Property Tax Information

Background

Tax Code §33.02, *Installment Payment of Delinquent Taxes*, allows for Installment Payment Agreements (payment plans) for customers who are unable to pay their full property tax bill. Agreements created on residence homesteads for current year property taxes accrue penalty plus interest each month taxes are delinquent up to the start date of a payment plan. After a payment plan begins, taxes that remain unpaid do not incur additional penalties and fees, but continue to accrue one percent interest each month thereafter. Payment plans for properties that are not residence homesteads accrue both penalties and interest on delinquent taxes, but prevent additional fees.

Issue

The ACT system does not have sufficient controls in place to prevent establishing inappropriate payment plans for properties with residence homesteads. As a result 2 of 126 (1.6%) accounts examined contained payment plans which were not properly established as residence homestead payment plans and thus continued to accrue penalties and interest after the start date. Not correctly establishing payment plans could result in inappropriate penalties assessed to the customer and create an unrecorded liability as a result of a refund due to the customer.

Recommendation

Current processes or controls should be re-emphasized to ensure that properties with residence homestead exemptions are correctly identified in ACT when establishing a payment plan. In addition, the Tax Office should consider inquiring of ACT system personnel if there is a system control that can be put into place which would prevent establishing an incorrect payment plan for residence homesteads.

Management Response

We agree with the Auditor's comments, and the following actions will continue to be taken to improve the establishment of residence homestead payment plans with qualifying property owners. Section 33.02 was recently amended to require property owners to have a qualifying residential homestead exemption with the Appraisal District in order to qualify for the homestead installment payment plan terms and conditions. Now that there is a connection between having the homestead exemption and qualifying for the homestead installment plan, we will be able to place additional controls to ensure compliance.