

**Audit of the Orange County
Tax Collector's Office
Delinquent Tangible Personal
Property Tax
Collection Function**

**Report by the
Office of County Comptroller**

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August 30, 2006

Earl K. Wood, Orange County Tax Collector

We have conducted an audit of the Delinquent Tangible Personal Property Tax Collection Function. The audit was limited to an examination of internal controls over the collection of delinquent tangible personal property tax and compliance with applicable laws, rules, and regulations. The period audited was October 1, 2004 through September 30, 2005. In addition, selected information from earlier years and through March 6, 2006, was also reviewed. Our audit was conducted in accordance with generally accepted government auditing standards, and included such tests as we considered necessary in the circumstances.

Responses to our Recommendations for Improvement were received from the Chief Financial Officer in your office and are incorporated herein.

We appreciate the cooperation of the personnel of your Office during the course of the audit.

Martha O. Haynie, CPA
County Comptroller

c: Board of County Commissioners

EXECUTIVE SUMMARY

Executive Summary

We have conducted an audit of the Delinquent Tangible Personal Property Tax Collection Function. The audit was limited to an examination of internal controls over the collection of delinquent tangible personal property tax and compliance with applicable laws, rules, and regulations. The period audited was October 1, 2004 through September 30, 2005 with selected information from earlier years and through March 6, 2006, also being reviewed. The objectives of the audit were to determine whether adequate controls exist over the collection of delinquent tangible personal property taxes and compliance with applicable laws, rules, and regulations relating to delinquent tangible personal property taxes.

Tangible personal property tax is an ad valorem tax assessed against furniture, fixtures, and equipment located in businesses and rental properties. It also applies to structural additions on mobile homes. Taxpayers must file a yearly tax return with the Property Appraiser's Office where a certified tax roll is prepared and presented to the Tax Collector's Office. The Tax Collector's Office prepares and mails the tax bills by the first of November. Taxes that are not paid by the first of the following April are considered delinquent.

Based on the results of the work performed, we found controls over collection of delinquent tangible personal property taxes to be adequate. We also found the Tax Collector's Office to be materially in compliance with applicable laws, rules, and regulations relating to delinquent tangible personal property taxes. However, opportunities for improvements were noted. These recommendations included the following:

Eight of twelve outstanding 1998 tax warrants were still open for collection and five of these did not have adequate attempts made to collect the delinquent taxes owed. Also, we could not determine whether adequate steps had been taken to collect the taxes due for one of the remaining four accounts.

The Tax Collector's Office does not have a written policy establishing conditions when to seize tangible personal property or garnish bank accounts of businesses that fail to pay their tangible personal property tax.

There is no tracking system for the status of tangible personal property tax warrants.

Management concurred with all of the recommendations made in the report and corrective action is underway.

ACTION PLAN

**AUDIT OF THE TAX COLLECTOR'S OFFICE
DELINQUENT TANGIBLE PERSONAL PROPERTY TAX COLLECTION FUNCTION
ACTION PLAN**

| NO. | RECOMMENDATIONS | MANAGEMENT RESPONSE | | | IMPLEMENTATION STATUS | |
|-----|--|---------------------|---|---------------|-----------------------|---------|
| | | CONCUR | PARTIALLY CONCUR | DO NOT CONCUR | UNDERWAY | PLANNED |
| | | 1. | We recommend the Tax Collector's Office enhances collection efforts for delinquent tangible personal property tax warrants by developing and implementing additional written collection procedures. | ✓ | | |
| 2. | We recommend the Tax Collector's Office develops a warrant tracking system to update the status of tax warrants on a regular basis | ✓ | | | ✓ | |

INTRODUCTION



Background

Tangible personal property tax is an ad valorem tax assessed on furniture, fixtures, and equipment located in businesses and rental properties. The tax also applies to structural additions on mobile homes. Taxpayers must file a Tangible Personal Property Tax return yearly with the Property Appraiser's Office. That office then assesses the value of the property and presents a certified tax roll to the Tax Collector's Office. The Tax Collector's Office has the responsibility of mailing the tax notices and collecting the taxes.

The tangible personal property tax bills are mailed out by the first of November of each year. The same due dates and early payment discounts from real estate tax billing applies to the tangible personal property tax bills. Tangible personal property taxes not paid by the first of the following April are considered delinquent. Section 197.413, Florida Statutes provides procedures Tax Collectors are to follow for delinquent tangible personal property taxes. Such procedures include:

- Prior to the first of May, the Tax Collector will prepare a list of unpaid personal property taxes including the taxpayer names and address and property subject to the tax as it appears on the tax roll. This list is used for the advertisement of delinquent taxes in the newspaper as required in Section 197.402, Florida Statutes.
- Tax warrants are prepared for taxes owed that are greater than \$50 against the delinquent taxpayers providing for levy upon, and seizure of, tangible personal property.
- Within 30 days of the warrant being prepared, the Tax Collector will file a petition in the Circuit Court for a court order to ratify and confirm the tax warrants. After the petition is filed, a hearing is scheduled.
- The Clerk of the Court mails certified letters to the delinquent taxpayers giving notice of the pending

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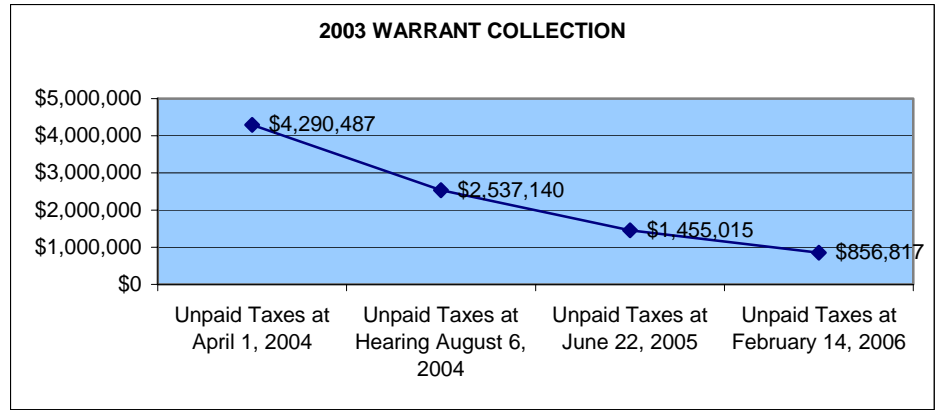
hearing, thus allowing them to pay the taxes due and avoid seizure of their property.

After the court hearing, any remaining unpaid warrants are turned over to the Tax Collector's Field Operations Department. The County is divided by zip code into five areas, each with a field inspector assigned. The inspectors go directly to the businesses to request payment of the delinquent taxes. If a business is permanently closed, steps are taken to attempt to locate a business owner to arrange payment. A tangible personal property tax warrant is collectable for seven years from the court date. The table below notes tangible taxes and various stages of taxes due through the warrant process over the prior three tax years.

| TANGIBLE PERSONAL PROPERTY TAX WARRANTS | | | |
|--|---------------|---------------|---------------|
| | 2002 | 2003 | 2004 |
| Taxes Due | \$139,253,520 | \$133,742,547 | \$135,879,693 |
| Number of Parcels on Tax Roll | 57,014 | 57,881 | 59,583 |
| Taxes Paid | \$133,235,727 | \$129,530,997 | \$132,359,993 |
| Unpaid Taxes at April 1 st | \$6,017,793 | \$4,290,487 | \$3,519,700 |
| Number of Warrants at April 1 st | 3,044 | 3,203 | 3,137 |
| Taxes Paid Prior to Court Hearing | \$681,521 | \$1,753,347 | \$697,889 |
| Number of Warrants Paid Before Court Hearing | 138 | 1,156 | 345 |
| Unpaid Taxes at Court Hearing | \$5,336,272 | \$2,537,140 | \$2,821,811 |
| Number of Warrants at Court Hearing | 2,906 | 2,047 | 2,792 |

The 2003 tax year was the focus of our audit; as 2003 was the most current tax year that had completed the warrant process at the time of our fieldwork. Of the \$133,742,547 taxes due for the 2003 tax year, \$4,290,487 was not paid by April 1, 2004. The Tax Collector issued warrants and petitioned the Circuit Court for an order directing levy and seizure of the property for the amount of unpaid taxes and costs. The amount for delinquent tangible personal property taxes sent to the Clerk of the Circuit Court in August of 2004 was \$2,537,140, representing 2,047 accounts. As of June 22, 2005, 865 warrants remained unpaid representing \$1,455,015 of unpaid taxes. The graph below depicts the reduction of delinquent taxes from the date of delinquency to the time of our fieldwork.

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Scope, Objectives, and Methodology

The audit scope consisted of an examination of internal controls over the collection of delinquent tangible personal property tax and compliance with applicable laws, rules, and regulations. The period audited was October 1, 2004 through September 30, 2005. In addition, selected information from earlier years and through March 6, 2006, was also reviewed. The objectives of the audit were:

- 1) To determine whether adequate controls exist over the collection of delinquent tangible personal property taxes; and,
- 2) To determine compliance with applicable laws, rules, and regulations relating to delinquent tangible personal property taxes.

To determine whether adequate controls exist over the collection of delinquent tangible personal property taxes, we obtained a list of delinquent tangible personal property accounts for the 2003 tax year and performed procedures to determine the reliability of the data. Such procedures included sending positive confirmations to a sample of taxpayers with unpaid warrants to verify past due amounts and reviewing account numbers not on the list to confirm the taxes had been paid. By reviewing field inspector daily logs, we determined whether attempts were being made to track business owners to obtain payment after a business has permanently closed. We also verified closed business by

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reviewing telephone listings for an active telephone number and visiting the location. For businesses making payments, we verified an approved installment plan was on file and whether payments had been received.

To verify accounts noted as bankrupt were bankrupt and being pursued through bankruptcy court, we selected a sample of bankrupt accounts and verified a proof of claim had been filed with the bankruptcy court. To determine whether other avenues of collection could be recommended for delinquent accounts, we researched collection procedures used by other Florida tax collectors.

To determine whether reasonable collection procedures were being performed for the seven-year life of the warrant, we selected a sample of active tax warrants and reviewed collection activity noted on the warrants. To determine checks recorded as collected by field inspectors had been properly recorded and deposited, we selected a sample of checks from field inspector daily logs for tangible personal property tax and verified the checks were applied to taxpayer accounts and deposited in the Tax Collector's bank account.

To determine compliance with applicable laws, rules, and regulations relating to delinquent tangible personal property taxes, we verified delinquent 2003 taxes were advertised in accordance with Section 197.402(2), Florida Statutes by reviewing newspaper copies retained by the Tax Collector's Office. In addition, we determined whether tax warrants were prepared and the Court petitioned in accordance with Section 197.413, Florida Statutes. We accomplished this by reviewing the petition, affidavit, and final order to the court.

Overall Evaluation

Based on the results of the work performed, we found controls over collection of delinquent tangible personal property taxes to be adequate. We also found the Tax Collector's Office to be materially in compliance with applicable laws, rules, and regulations relating to delinquent tangible personal property taxes. Improvements are needed as noted herein.

RECOMMENDATIONS FOR IMPROVEMENT



1. The Tax Collector's Office Should Enhance Collection Efforts For Tangible Personal Property Taxes

As noted in the background section of the report, tangible personal property taxes that are not collected within seven years are required by Florida Statutes to be written off by the Tax Collector as uncollectible and no further collection efforts may occur. As of February 14, 2006, we noted that the taxes due for the 1998 tax year, excluding interest, exceed \$856,817 (this is out of a total tax assessment for 1998 of \$132,710,183). Although we noted that the Tax Collector collected over 99 percent of the total billings, these remaining accounts became permanently uncollectible in July 2006, after the court hearing for the 2005 Tax Warrants. We reviewed all unpaid tax accounts with a balance of \$5,000 or more and noted the following accounts that the Secretary of State, Division of Corporations reported as an active corporation:

| Tax Collector Warrant Number | Tax Collector Account Number | Amount of Taxes and Interest Owed* |
|------------------------------|------------------------------|------------------------------------|
| 1998-002574 | UTL-000387 | \$21,179 |
| 1998-000995 | REG-024799 | \$19,662 |
| 1998-000619 | REG-013358 | \$15,731 |
| 1998-000618 | REG-013357 | \$12,721 |
| 1998-002581 | UTL-000491 | \$11,247 |

* Amount is as of February 2006

During our review of collection efforts performed by the Tax Collector's Office, we noted the following:

- We reviewed the collection status on twelve outstanding warrants from the 1998 tax year. Eight of these warrants totaling \$48,940 including interest were still open for collection, and, except for three, adequate attempts to collect the delinquent taxes owed were not made. Also, we could not determine whether adequate steps had been taken to collect the taxes due for one of the remaining four accounts.

RECOMMENDATIONS FOR IMPROVEMENT



Section 197.416, Florida Statutes, states the Tax Collector from time to time shall continue his efforts to collect delinquent tangible personal property taxes for a period of seven years from the date the warrant was issued. A checklist could be developed to track collection activities throughout the life of the tax warrant. Continuing their collection efforts may locate owners of closed businesses and old tax liabilities could possibly be collected. Delinquent proprietors may have opened new businesses under other names and now have the means in which to pay these delinquent taxes.

- The Tax Collector's Office does not have a written policy establishing conditions when to seize tangible personal property of businesses or garnish bank accounts of businesses that fail to pay their tangible personal property tax. However, we did note that over the past years, the Tax Collector's Office has collected additional monies on delinquent accounts from the sale of the delinquent taxpayer's business property.

Through inquiry with other Florida Tax Collectors, we noted that not many counties stated the office seizes and sells property for payment of delinquent taxes. However, several counties represented they garnish bank accounts and use other methods in their attempts to collect delinquent property taxes not utilized by Orange County. These methods include posting a large, bright colored sticker notating tax lien on the door of the business or mailing a certified final request of payment with a 30-day deadline and then proceeding with an inventory if payment is not made. In addition, one county calls all delinquent businesses on the first of April demanding payment within one week and another county noted a good working relationship with their property appraiser's office to keep them informed of deleted accounts in order to locate the business owners more timely. Section 197.332, Florida Statutes, states "...the tax collector has the authority and obligation [emphasis added]...



to collect delinquent taxes, interest, and costs, ...by seizure and sale of personal property." If more aggressive methods of collection were employed in their attempts to collect delinquent property taxes, additional tax dollars may be collected each year.

We Recommend the Tax Collector's Office enhances collection efforts for delinquent tangible personal property tax warrants by developing and implementing additional written collection procedures.

Management's Response:

We concur. Underway. As noted, The Tax Collector collected over 99 percent of the total billings for the 1998 Tangible Personal Property Taxes. The Tax Collector's office is in the process of enhancing and implementing collection procedures to ensure the most tax dollars are collected. These methods include posting large, bright colored stickers noting tax liens on the door of the business. Other methods include garnishing bank accounts and property seizures. The seizure and sale of personal property will only be applied if the proceeds of the sale exceed the taxes owed, the cost of advertising and the auction fees. The garnishment of bank accounts will begin within the next tax warrant period. These procedures have been added to the Field Operations Department Procedure Manual.

2. The Tax Collector's Office Should Develop a Tracking System for Tangible Personal Property Tax Warrants

There is no tracking system for the status of tangible personal property tax warrants. The manager maintains a warrant number list on her computer that may note the status of the warrant, but if the inspector is still working on collection, there may be no notations on her list. As noted above, Florida Statutes provides that collection efforts for tax warrants be continued for seven years from the date the warrant was ordered. If collection efforts are to be employed for a seven-year period, the outstanding warrant list should

RECOMMENDATIONS FOR IMPROVEMENT



Audit of the Tax Collector's Office
Delinquent Tangible Personal Property
Tax Collection Function

be updated periodically to provide a current status on the collection of the warrant. Questions concerning the status of a business's tax warrant may arise and if the inspector handling that account is unavailable, the status may not be known in a timely manner. In addition, if an inspector leaves the job, there may be no way of knowing what action may have already been taken.

We Recommend the Tax Collector's Office develops a warrant tracking system to update the status of tax warrants on a regular basis.

Management's Response:

We concur. Underway. Presently, the tracking system for Tangible Personal Property Tax warrants is a manual one and is primarily maintained by the Field Inspector who is working the tax warrant. Each Field Inspector now has a laptop computer assigned to them. This computer provides real-time information on Occupational Licenses. Software is being developed to provide real-time access to Tangible Personal Property Tax Warrants as well. This software will allow up to the minute notes and tracking on the collection efforts made on each Tax Warrant. This system will be a vital working tool for the Field Operations Department. Beginning with the new Tangible Personal Property Tax Warrant year, the Field Inspectors have begun a rotation schedule requiring that Tax Warrant collection status be readily available to each inspector.