



Follow-Up Review of
Audit of Records, Taxes, and Treasury
Division's Tourist Development Tax
Collection and Enforcement Section

Office of the County Auditor

Follow-up Review

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Follow-Up Review Conducted by:
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Report No. 21-08
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OFFICE OF THE COUNTY AUDITOR

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February 3, 2021

Honorable Mayor and Board of County Commissioners

We have conducted a follow-up review of the Audit of the Records, Taxes, and Treasury Division's Tourist Development Tax Collection and Enforcement Section. The objective of our review was to determine the implementation status of our previous recommendations.

We conclude that eight recommendations were implemented and three were partially implemented. The status of each of our recommendations is presented in this follow-up report.

We conducted this review in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives.

We appreciate the cooperation and assistance provided by the Records, Taxes, and Treasury Division (RTT) and Tourist Development Tax Collection and Enforcement Section (TDT Section) throughout our review process.

Respectfully submitted,

A handwritten signature in blue ink that reads "Bob Melton".

Bob Melton
County Auditor

cc: Bertha Henry, County Administrator
Andrew Meyers, County Attorney
Monica Cepero, Deputy County Administrator
Kevin Kelleher, Assistant County Administrator
George Tablack, Chief Financial Officer
Tom Kennedy, Director, Records, Taxes, and Treasury Division
Norman Foster, Director, Office of Management and Budget

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IMPLEMENTATION STATUS SUMMARY

FOLLOW-UP REVIEW OF THE AUDIT OF THE RECORDS, TAXES, AND TREASURY DIVISION'S TOURIST DEVELOPMENT TAX COLLECTION AND ENFORCEMENT SECTION

NO.	PREVIOUS RECOMMENDATION	IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED
1.	Send a "notice of freeze", for all accounts over 120 days past due, to the Tax Dealer's banking institution. If funds are not provided within 30 days, RTT management along with the County Attorney should recover the tax due by utilizing a Writ of Garnishment.	✓		
2A.	Retain an additional amount of \$354,258 from the TDT funds to reimburse the General Fund for the cost of the TDT Section for fiscal years 2015 through 2017.		✓	
2B.	Budget and retain sufficient TDT funds to fully offset the cost of efficient and effective TDT collection and enforcement		✓	
3A.	Coordinate with County Parks that do not remit TDT for their RV Campground activities and conduct an audit to identify amounts owed.	✓		
3B1.	Investigate the exemption status of the eight RV Parks that do not remit TDT but are listed as exempt and conduct an audit to determine the amounts owed.	✓		
3B2.	Establish procedures to periodically review the status of TDT exemptions.	✓		

Follow-up Review of the Records, Taxes, And Treasury Division's
Tourist Development Tax Collection and Enforcement Section

NO.	PREVIOUS RECOMMENDATION	IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED
4A.	Perform an assessment of required staffing resources in order to achieve adequate audit cycles. Management should also cease using auditors for operational activities.	✓		
4B1.	Develop a formalized audit plan based on a comprehensive risk assessment.	✓		
4B2.	Prepare a comprehensive audit manual prescribing audit procedures to be performed and workpaper documentation to be completed.	✓		
4B3.	Track, monitor, and report time incurred by each auditor on each audit and non-audit function.	✓		
5.	Coordinate with the County Attorney to modify the MOU with Airbnb and HomeAway to add provisions that will allow for itemized reporting and/or other adequate determination that all applicable taxes have been remitted and properties can be identified.		✓	

INTRODUCTION

Scope and Methodology

The Office of the County Auditor conducts audits of Broward County's entities, programs, activities, and contractors to provide the Board of County Commissioners, Broward County's residents, County management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted a follow-up review of the Audit of the Records, Taxes, and Treasury Division's Tourist Development Tax Collection and Enforcement Section (Report No. 18-26). The objective of our review was to determine the status of previous recommendations.

We conducted this review in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives.

Our follow-up review included such tests of records and other auditing procedures as we considered necessary in the circumstances. The follow-up testing period was August to September 2020. However, transactions, processes, and situations reviewed were not limited by the audit period.

Overall Conclusion

We conclude that eight recommendations were implemented and three were partially implemented. The status of each of our recommendations is presented in this follow-up report.

FOLLOW-UP TO PREVIOUS RECOMMENDATIONS

This section reports actions taken by management on the recommendations in our previous review. The issues and recommendations herein are those of the original review, followed by the current status of recommendations.

1. The TDT Section Did Not Utilize All Collection Efforts Available by Law Resulting in Approximately \$2.5 Million in Uncollected Revenue.

During our prior audit, we noted that the TDT Section had not used all collection mechanisms available to them. The TDT Section had employed some collection efforts including placing liens on properties; however, the liens often remained in place for multiple years without collection. Some of the accounts with liened properties remained active without satisfying the lien or paying the TDT amounts due from continuing operations. We noted that additional collection efforts such as freezing of bank accounts and garnishments are available and provide greater enforcement impact and more timely collection; however, these enforcement mechanisms were not being used by the TDT Section.

We identified 26 delinquent accounts with recorded liens totaling \$1,174,393 and estimated that 16 of the accounts owe an additional \$1,339,116 accruing after the property was originally liened resulting in a total of \$2,513,509 in uncollected revenue.

We recommended management send a "notice of freeze", for all accounts over 120 days past due, to the Tax Dealer's banking institution. If funds are not provided within 30 days, RTT management along with the County Attorney should recover the tax due by utilizing a Writ of Garnishment.

Status: Implemented. The TDT Section has updated collection procedures to include the use of bank freezes and garnishments for accounts over 120 days past due as well as the use of other tools, including direct contact with taxpayers, examination of financial records, subpoenas to witnesses and third parties, additional legal actions, and requesting the State of Florida to revoke the entity's license or charter. We further noted that:

- 24 of the 26 liened accounts discussed in the original report have been resolved resulting in \$2,382,416 in collections. The remaining two accounts are assigned to the County Attorney for resolution.
- Any new liens as of February 29, 2020 (prior to the COVID pandemic) have also been resolved.

2. An Estimated \$354,258 in General Fund Monies Were Used to Subsidize the Cost of TDT Collection and Enforcement Over the Past Three Years While \$4,191,583 in Available TDT Funds Remained Unutilized

During our prior audit, we noted the following:

- A. An estimated \$354,258 in General Fund monies were used to partially fund the cost of TDT collection and enforcement over the past three years. The TDT Section retained \$1,275,137 (0.7%) of the \$182,224,000 in TDT collections to offset the cost of collection and enforcement of TDT in fiscal years 2015 through 2017. However, the total estimated cost incurred during this period was \$1,629,395, resulting in a \$354,258 shortage funded by the General Fund rather than TDT.
- B. \$4,191,583 in available TDT funds remained unutilized for collection and enforcement. Pursuant to Section 125.0104(10)(b)5., Florida Statutes, "a portion of the tax collected may be retained by the County for costs of administration, but such portion shall not exceed 3 percent of collections." For fiscal years 2015 through 2017, this amount would be \$5,466,720 (\$182,224,000 Total TDT collections x 3%). However, only \$1,275,137 was used to fund TDT collection and enforcement resulting in \$4,191,583 of unutilized TDT.

We recommended management:

- A. Retain an additional amount of \$354,258 from the TDT funds to reimburse the General Fund for the cost of the TDT Section for fiscal years 2015 through 2017.
- B. Budget and retain sufficient TDT.

Status:

- A. **Partially Implemented.** Indirect costs for the TDT Collection and Enforcement Section were calculated within the County's cost allocation methodology but only a portion of the cost allocation were transferred / reimbursed from the TDT funds to the General Fund. Management has indicated that cost allocation plans are a ceiling and discretion can be used whether to reimburse the General Fund. Management has further indicated that TDT Revenues have been down 50% on average per month since March 2020 and that it does not make economic sense to retroactively recover these indirect costs that are permissible to recover from this distressed fund at this time. As noted in recommendation 2B below, this has been implemented going forward.
- B. **Partially Implemented.** For fiscal year 2020 and later years, the personnel who work on TDT revenues have been/will be funded directly in the TDT Fund, rather than in the

General Fund. Management has indicated that each year, a “Full Cost Allocation Plan” is prepared by MGT Consulting Group to estimate the share of General Fund expenditures that relate to activities of non-General Fund funds. Expenditures used in the analysis include Building Depreciation, centralized County functions (Commission, Auditor, Attorney, County Administration, Budget), Finance & Administrative Services Department central costs, other finance divisions, Facilities Management, and utilities. Since the Full Cost Allocation Plan is based on actual expenditures, the fiscal year 2023 budgeted amounts for cost allocation will be the first year that the actual costs from fiscal year 2020 will be used, and the costs of the personnel who administer TDT revenues will be used as one of the bases of analysis, as will the square footage of space used by these personnel. Other factors of cost allocation involving TDT will be reviewed in the 2022 study, which is the first year of actual data that reflects the changing fund method.

3. Some Recreational Vehicle (RV) Parks Were Not Properly Registered and Remitting TDT.

During our prior audit, we noted the following concerns:

- A. Four County Parks do not remit TDT for their RV Campground activities which is estimated to be \$303,962 over a three year period.
- B. The TDT Section lists eight private RV Parks as tax exempt but lacks adequate support for the exemption status.

We recommended management:

- A. Coordinate with County Parks that do not remit TDT for their RV Campground activities and conduct an audit to identify amounts owed.
- B1. Investigate the exemption status of the eight RV Parks that do not remit TDT but are listed as exempt and conduct an audit to determine the amounts owed.
- B2. Establish procedures to periodically review the status of TDT exemptions.

Status:

- A. Implemented.**
- B1. Implemented.**
- B2. Implemented.**

4. Audit Coverage and Practices Are Inadequate

During our prior audit, we noted the following concerns:

- A. The current number and frequency of TDT audits performed was inadequate. This was caused by a lack of audit staffing resources and their dual responsibilities performing other administrative and collection functions.
- B. We noted the following deficiencies with audit practices:
 - 1) No formalized risk assessment and audit plan existed.
 - 2) No audit manual existed.
 - 3) Audit project time was not effectively monitored through a time reporting system.

We recommended management:

- A. Perform an assessment of required staffing resources in order to achieve adequate audit cycles. Management should also cease using auditors for operational activities.
- B1. Develop a formalized audit plan based on a comprehensive risk assessment.
- B2. Prepare a comprehensive audit manual prescribing audit procedures to be performed and workpaper documentation to be completed.
- B3. Track, monitor, and report time incurred by each auditor on each audit and non-audit function.

Status:

- A. Implemented.** During our prior audit, we noted each of the three TDT auditors perform approximately ten audits per year. Currently, there are still only three auditors and the fiscal year 2020 audit plan includes 30 audits, 10 audits per auditor. In the fiscal year 2020 adopted budget an additional position was added to RTT to assist with collection of TDT taxes. In addition, the County Attorney's Office added positions to assist with overall County collection efforts, and, in particular, TDT revenues. Management has indicated that these additional personnel have contributed to TDT collection efforts in the past few years.

Management has further indicated that the number of planned audits was projected to be static for fiscal year 2020 due to audit staff turnover and onboarding during the period. However, due to the impact of the COVID-19 pandemic and the economic climate, the actual number of planned audits for fiscal year 2020 and projected number for fiscal year 2021 will be lower than anticipated. Notwithstanding, RTT has performed an assessment of required staffing resources for the TDT Section, as recommended. The assessment data can be reviewed and revised, as needed.

- B1. Implemented.** Management formalized an audit plan.

- B2. Implemented.** Management formalized an audit manual.

- B3. Implemented.** RTT does not have an automated system to track detailed non-audit functions completed by each auditor. Despite this, RTT, in consultation with the Office of the County Auditor, has developed a Daily Auditor's Tracking Worksheet and corresponding procedure which can be used to track daily auditor work output. This worksheet, along with individual audit tracking data, can be compiled to track, monitor, and report audit and non-audit time for each auditor.

5. The Airbnb and HomeAway MOUs Do Not Include Provisions Which Will Allow an Adequate Determination that All Applicable Taxes Have been Paid

The County has a Memorandum of Understanding (MOU) with Airbnb (as of April 2017) and HomeAway (as of November 2017). Under the agreements, the County does not receive a list of properties included in the total amount remitted. Further, the Audit Rights provisions in both MOUs will not allow for adequate determination of whether all applicable taxes have been remitted. This represents an audit scope restriction that hampers, if not precludes, an audit to ensure taxes have been remitted by these entities for all applicable properties that have been rented on a short-term basis. Consequently, there is a risk that taxes may not be collected and/or remitted to Broward County for all rentals, and we would have no reliable method to detect such discrepancies. Consequently, the County is, in effect, precluded from determining whether tax is being collected and remitted for residential rental properties.

We recommended management coordinate with the County Attorney to modify the MOU with Airbnb and HomeAway to add provisions that will allow for itemized reporting and/or other adequate determination that all applicable taxes have been remitted and properties can be identified.

Status: Partially Implemented. Although the approved MOUs with vacation rental companies do not include provisions that will allow for itemized reporting and/or other adequate determination that all applicable taxes have been remitted and properties can be identified, management has represented that efforts were made during negotiations and such provisions were unachievable. Management has further represented that the existing provisions are consistent with agreements entered into by other jurisdictions and emphasized that “to the extent that [a vacation rental company] enters into a MOU with any other local government entity that provides broader audit rights, the Broward County MOU [for that vacation rental company] is automatically expanded to include the broader audit rights.” We continue to emphasize the importance of achieving broader audit rights to allow for adequate determination that all applicable taxes have been paid. Management has further indicated that it continues to comply with the terms of the existing MOUs and will continue to receive TDT revenues from each firm that maintains an active MOU with Broward County.