



Town of DePeyster

Town Clerk Operation – Tax Collection

Report of Examination

Period Covered:

January 1, 2013 — November 4, 2014

2015M-91



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	1
INTRODUCTION	2
Background	2
Objective	2
Scope and Methodology	2
Comments of Local Officials and Corrective Action	2
TOWN CLERK OPERATION – TAX COLLECTION	3
Cash Shortage	4
Timeliness of Deposits	8
Annual Audit	8
Recommendations	9
APPENDIX A Response From Town Officials	11
APPENDIX B Audit Methodology and Standards	13
APPENDIX C How to Obtain Additional Copies of the Report	15
APPENDIX D Local Regional Office Listing	16

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

October 2015

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of DePeyster, entitled Town Clerk Operation – Tax Collection. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller’s authority as set forth in Article 3 of the New York State General Municipal Law.

This audit’s results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Town of DePeyster (Town) is located in St. Lawrence County (County) and has a population of 998 residents. The Town is governed by an elected five-member Town Board (Board), which consists of the Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general management and control of Town finances. The Supervisor also serves as the chief executive officer and chief fiscal officer. The Town's 2014 general and highway fund appropriations totaled about \$450,000 and were funded primarily with real property taxes, sales tax and State aid.

The elected Town Clerk (Clerk) also acts as the Tax Collector. The Clerk is responsible for collecting Town and County real property taxes, which totaled approximately \$460,000 in 2014.

Objective

The objective of our audit was to review the Clerk's records and procedures for tax collection. Our audit addressed the following related question:

- Did the Clerk record, deposit, remit and report all real property tax moneys collected in a timely and accurate manner?

Scope and Methodology

We examined the Clerk's tax collection records and procedures for the period January 1, 2013 through November 4, 2014. We expanded our scope back to January 1, 2010 to compare recorded receipts to deposits and to review the Clerk's settlements and remittances to the Supervisor and County Treasurer.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they have taken, or plan to take, corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk's office.

Town Clerk Operation – Tax Collection

The Clerk is responsible for receiving, recording, depositing, remitting and reporting all tax moneys collected in an accurate and timely manner. This requires maintaining complete and accurate records and reports, retaining documents to support moneys collected, promptly depositing moneys received into the proper bank accounts and remitting those moneys to the appropriate entities. It is the Board's responsibility to provide adequate oversight of the Clerk's operation and to audit, or cause to be audited, the Clerk's books and records on an annual basis.

The Clerk did not record, deposit or remit tax moneys collected in a timely and accurate manner. An audit and investigation by our office led to the arrest in July 2015 of the Clerk, who pleaded guilty to two counts of attempted tampering with public records on August 7, 2015, admitting she falsified her personal Town and County tax payments for 2011 through 2014 totaling \$4,303. This amount is composed of the Clerk's 2012-2014 tax payment shortages totaling \$3,262 as of November 2014 plus an extra cash deposit of \$1,041 on May 15, 2012 that the Clerk told us was payment of her 2011 personal taxes. As part of the plea agreement, the Clerk resigned from her position and agreed to pay \$4,303 in restitution.

For the period January 1, 2010 through October 31, 2014, total bank deposits were less than tax receipts recorded in the Clerk's tax accounting system by \$3,313, and the Clerk's tax liabilities as of October 31, 2014, all payable to the Supervisor, exceeded known cash assets by \$3,313. That shortage was approximately the same amount as the Clerk's 2012 through 2014 personal property taxes (\$3,262) that the Clerk recorded as paid but which we were unable to confirm were deposited into the tax bank account. On November 3, 2014, the day before we began our audit, the Clerk made a \$3,313 deposit to correspond to that amount and remitted the payment due to the Supervisor. When we interviewed the Clerk on June 12, 2015 about the payment of her personal taxes and the November 3 deposit, she told us that she recorded her taxes paid for 2011 through 2014 but did not actually pay her taxes for 2012, 2013 and 2014. The Clerk said that she withdrew \$3,000 from her personal bank account and deposited it along with \$313 that was held in the Town safe in order to make the \$3,313 deposit the day before our audit began.

Giving credit for the May 15, 2012 deposit of \$1,041 for her 2011 taxes, the Clerk's recorded tax payments for 2012-2014 total \$3,262. As a result, the Clerk still owes \$262 to the Town. The Clerk's actions

went undetected until our audit because the Board did not provide adequate oversight of the Clerk's operations, such as conducting an annual audit of the Clerk's books and records as required. The audit and investigation by our office led to the arrest in July 2015.

Cash Shortage

The Clerk is accountable for all tax moneys collected. New York State Town Law (Town Law) and New York State Real Property Tax Law set forth the legal requirements the Clerk must follow to record, deposit and remit taxes. The Clerk should maintain accurate and complete records and reports and retain source documents, such as tax remittance stubs or duplicate receipts, to support all payments received. The Clerk must remit all taxes to the Supervisor for the Town's share of the tax levy and then remit the balance of the taxes collected to the County. The Clerk should reconcile any bank accounts on a monthly basis and periodically perform an accountability analysis by comparing cash on hand and on deposit in the bank to detailed liabilities, including amounts due to the Town and to the County, to ensure all tax collections are identified and properly accounted for. At the end of the collection period, the Clerk is required to settle with the County Treasurer and must account for the taxes collected, amounts remitted to the Supervisor and County Treasurer, any adjustments to the tax roll and the taxes that remain unpaid.¹ The Clerk must also turn over all interest and penalties² collected for delinquent real property taxes to the Supervisor.

We began our audit on November 4, 2014. During our entrance conference and subsequent interviews, the Clerk told us she does not routinely print any cash receipt records (batch reports) from the tax accounting system used to account for and record real property tax payments. In addition, she does not keep tax remittance stubs that are submitted by taxpayers with their tax payments, so the original source documents used to input payments into the system are not retained.³ The Clerk also explained that she does not perform monthly bank reconciliations or an accountability analysis for the tax collections on a regular basis. However, after we notified the Town of our planned audit,⁴ the Clerk prepared a worksheet which listed bank transactions for 2013 through 2014 and compared the available cash with her

¹ Unpaid taxes are returned to the County Treasurer for collection and enforcement proceedings.

² Including \$2 second notice fees collected by the Clerk

³ The Clerk printed batch summary reports prior to our entrance conference and upon our request and provided us with some reports electronically. In addition, we obtained the Clerk's cash receipt batch reports from the County Treasurer's Office. These batch reports provide detailed information for each tax receipt entered into the system, including the bill number, property owner, tax ID, payment date, paid amount for tax, penalty, surcharge, second notice fee and form of payment (cash or check).

⁴ We sent an audit notification letter to the Town on October 7, 2014.

known liabilities. Based on our review of the Clerk’s worksheet and our tests of the records, we determined that the Clerk’s liabilities (amounts payable to the Supervisor) exceeded the known cash assets by \$3,313 as of October 31, 2014 – the end of the last month before the start of our fieldwork.

Figure 1: Accountability Analysis as of October 31, 2014	
Assets	
Bank Account Balance	\$1,877
Liabilities – Amounts Due to the Supervisor	
2012 Interest and Penalties	\$1,253
2013 Interest and Penalties	\$1,849
2013 Unrecorded Tax Payments	\$727
2014 Interest and Penalties	\$1,361
Total Liability – Due to Supervisor	\$5,190
Shortage	
	(\$3,313)
Deposit on November 3, 2014	\$3,313
Bank Account Balance After November Deposit and Payment to Supervisor	\$0

The Clerk had outstanding liabilities because she did not remit any interest and penalties, totaling \$4,463, to the Supervisor for years 2012 through 2014, as required by law. In addition, the Clerk received and deposited installment tax payments, totaling \$727, from two taxpayers in 2013 but did not record the receipts in the tax accounting system at the time of collection. Despite receiving the payments, the Clerk improperly included the tax installments in the list of unpaid taxes turned over to the County for enforcement. After the taxpayers received delinquent notices from the County, they provided evidence of payment to the County and the County recouped the moneys from the Town through chargebacks on the subsequent year’s tax levy. The County notified the Clerk of the errors in July 2013 and April 2014 so she could record the payments in the tax accounting system⁵ and remit them to the Supervisor. However, as of October 31, 2014, the Clerk still had not remitted the \$727 in tax payments to the Supervisor.

On November 3, 2014, the day prior to our entrance conference and approximately five months after settling with the County, the Clerk made a \$3,313 cash deposit into the tax bank account to cover the shortage. The Clerk then paid the Supervisor the total \$5,190 on December 8, 2014, which reduced the bank balance in the tax account to zero. During our entrance conference, the Clerk told us that she

⁵ Per our review of the 2013 batch reports, the Clerk later recorded one of the payments (\$452) in the system after the County notified the Clerk of the error, but the remaining payment (\$275) was still not entered in the system even though the County instructed the Clerk in July 2013 to record the payment.

had been holding the \$3,313 in the Town safe to use as a change fund and these moneys were used to make the cash deposit. She stated that she withheld cash from deposits so she would have cash available to make change for taxpayers because the Board did not provide her with a change fund. However, we questioned this practice because it is not typical to retain over \$3,300 in undeposited cash to use as a change fund five months after the end of the tax collection period.

Overall, the Clerk admitted that she falsified her personal Town and County tax payments for 2011 through 2014 totaling \$4,303. We could see where she recorded her tax payments for four years totaling \$4,303, but we found no evidence of payment for 2012-2014, or \$3,262. We found the Clerk made an extra cash deposit of \$1,041 on May 15, 2012, which the Clerk told us was payment of her 2011 tax payments.

Figure 2: Analysis of Recorded Tax Payments and Deposits

Year	Total Recorded Tax Receipts	Total Bank Deposits	Deposit Shortage	Clerk's Recorded Tax Payments Not Found in Deposits
2010	\$341,360	\$341,360	\$0	\$0
2011	\$365,730	\$365,730 ^a	\$0	\$0
2012	\$389,070	\$388,002 ^a	(\$1,068)	(\$1,081)
2013	\$412,913 ^b	\$411,783	(\$1,130)	(\$1,163)
2014	\$382,759	\$381,644	(\$1,115)	(\$1,018)
Total	\$1,891,832	\$1,888,519	(\$3,313)	(\$3,262)
Deposit in May 2012				(\$1,041)
Total Falsified Payments				(\$4,303)

^a The Clerk made an extra cash deposit of \$1,041 on May 15, 2012 that the Clerk told us was payment of her 2011 real property taxes. We added this extra deposit to the 2011 deposit total and subtracted it from the 2012 deposit total for this analysis.

^b We adjusted the total recorded tax receipts for 2013 to include a \$275 tax payment that was deposited in the bank but not recorded in the records. The taxpayer notified the County of this error.

As shown in Figure 2, our analysis of batch reports and deposits disclosed that the Clerk's bank deposits were less than recorded receipts by \$3,313 over the past three years. This is approximately the same amount as the Clerk's personal real property taxes for the 2012, 2013 and 2014 years combined. Although the Clerk recorded her own real property taxes as paid these years, we found no evidence she actually paid her taxes.

We compared the detailed cash receipt batch reports to the deposit compositions⁶ from January 2010 through November 2014.⁷ Figure 2 shows a comparison of the total deposit shortage each year and the amount of the Clerk's personal tax payments, which we were unable to trace to deposits.

- In 2010, the Clerk recorded her personal tax payment of \$713.81 as paid by check. We verified the check was deposited into the tax bank account and found no discrepancies between total recorded tax receipts and total deposits in 2010.
- In 2011, the Clerk recorded her taxes as paid by checks in three installments totaling \$1,041.94, but we found no evidence the checks were deposited in the bank. The total bank deposits for the year were less than the total recorded tax receipts by \$1,041.94, which is exactly equal to the Clerk's 2011 personal tax payments. While it appears that the Clerk did not pay her personal taxes in 2011, our testing of deposits made in 2012 revealed that the Clerk made an extra unidentified cash deposit of \$1,041.94 on May 15, 2012. The Clerk told us this extra deposit was made to satisfy the amount of her personal taxes due for 2011.
- In 2012, the Clerk recorded her taxes as paid by checks in three installments totaling \$1,080.61. We found no evidence any checks were deposited in the bank for the Clerk's personal taxes. After reducing the total 2012 bank deposits for the Clerk's late 2011 tax payment of \$1,041.94, we identified a net deposit shortage of \$1,067.76 in 2012. This net shortage appears to have resulted from the Clerk's failure to pay her \$1,080.61 personal taxes for 2012 less minor overpayments made by five other taxpayers for \$12.85.
- In 2013, the Clerk recorded her taxes as paid by cash in two installments totaling \$1,162.53. Meanwhile, the total bank deposits for the year were less than the total recorded tax receipts by \$1,130.30. The net shortage of \$1,130.30 appears to have resulted from the Clerk's failure to pay her \$1,162.53 personal taxes for 2013, plus \$7.77 in other deposit differences and less an overpayment of \$40 by another taxpayer.
- In 2014, the Clerk recorded her taxes as paid by a cash payment of \$1,018.38. Total bank deposits for the year were less than the total recorded tax receipts by \$1,115.30. The net shortage

⁶ Images of deposit slips and deposited checks, obtained from the bank

⁷ We traced each tax receipt record on the batch reports to the deposit compositions and compared receipts and deposits in total each year.

appears to have resulted from the Clerk's failure to pay her \$1,018.38 personal taxes for 2014, plus a total of \$100 when the Clerk recorded two taxpayers as paid in full for multiple tax bills when the checks written were less than the taxes due, and less a net of \$3.08 in other deposit differences.

When we interviewed the Clerk on June 12, 2015, the Clerk told us that she did not pay her personal taxes for 2012, 2013 and 2014. The Clerk also told us that the \$3,313 cash deposit she made the day before our entrance conference was not solely from the change fund moneys in the Town safe, but instead \$3,000 came from her personal bank account and \$313 came from moneys held in the Town's safe. Since the Clerk's recorded tax payments totaled \$3,262, the Clerk still owes \$262 to the Town.

Timeliness of Deposits

The Clerk is required by Town Law to deposit all tax collections within 24 hours of receipt. It is critical that all collections be deposited intact, in the same order and form as received (i.e., cash or check), to help prevent errors or irregularities.

In addition to the discrepancies we found with the Clerk's personal tax payments, we also found other deposits that were not made timely and intact. For example, in 2013, the Clerk recorded cash receipts totaling \$39,579 in batch report five (dated January 27 and 28, 2013). Checks totaling \$26,850 were deposited in the bank on February 4, 2013, but the cash which totaled \$12,729 was withheld from the deposit. The bulk of this cash was not deposited until March 5, 2013 or later. We also reviewed all 12 tax deposits during the 2014 tax collection period and found that the majority of those deposits were late. For instance, batch report 13 included over \$23,214 in receipts with recorded payment dates of March 30 and 31, 2014, but the moneys were not deposited until May 6, 2014, over one month later. The Clerk's failure to deposit tax collections in a timely manner increases the risk that moneys collected could be lost or misused.

Annual Audit

Town Law requires the Board to annually audit the records and reports of any Town officer or employee who received and remitted moneys on behalf of the Town in the preceding year or to hire a certified public accountant or public accountant for that purpose. The purpose of this annual audit is to help provide assurance that public moneys are handled properly (i.e., deposited in a timely manner, accurately recorded and accounted for), to identify conditions that need improvement and to provide oversight of the Town's financial operations. This oversight is especially important when one individual alone, such as the Clerk, is responsible for processing transactions (i.e., receiving, recording, reporting and remitting moneys). While the Board is required to audit the Clerk's records at least annually, more

frequent monitoring of the Clerk's financial activities can help reduce the risk that errors or irregularities will occur and go undetected.

The Board did not perform an annual audit or retain an independent auditor to audit the books and records of the Clerk. Consequently, the Board did not provide appropriate oversight or comply with Town Law.

Because the Board did not perform an annual audit or require the Clerk to remit the interest and penalties collected to the Supervisor in a timely manner, the Clerk had an opportunity to use the interest and penalties she collected to cover the tax payments due to the Supervisor and County. This enabled the Clerk to deposit less tax money than she was accountable for, which allowed the Clerk's tax liabilities to exceed known cash assets by \$3,313 without detection by Town officials. In light of the discrepancies found during our audit, it is especially important that, going forward, the Board ensures that annual audits are routinely conducted and that the Board provides more frequent monitoring of the Clerk's activities, such as review of the Clerk's records more often (i.e., comparing batch reports to deposits) and ensuring the interest and penalties collected are remitted to the Supervisor.

Recommendations

The Board should:

1. Take appropriate action to recover the moneys due from the Clerk.
2. Perform or contract for an annual audit of the Clerk's records and reports and perform more frequent monitoring of the Clerk's financial activities to help ensure that tax collections are promptly deposited and accurately recorded and accounted for.

The Clerk should:

3. Ensure that tax receipts are recorded in an accurate and timely manner.
4. Print and retain detailed batch reports and reconcile them to the deposits made in the bank. Any differences should be promptly investigated and resolved.
5. Retain source documents, such as tax remittance stubs or duplicate receipts, to support tax payments received.

6. Prepare monthly bank reconciliations and ensure that known liabilities agree with available cash. Any differences should be promptly investigated and resolved.
7. Remit all interest and penalties to the Supervisor in a timely manner.
8. Deposit all moneys collected within 24 hours of receipt and intact.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

The Town officials' response to this audit can be found on the following page.

The Town's response letter refers to an attachment that supports the response letter. Because the Town's response letter provides sufficient detail of its actions, we did not include the attachment in Appendix A.

Office of the State Comptroller
Division of Local Government and School Accountability
State Office Building, Room 409
333 E. Washington St.
Syracuse, NY 13202-1428
(Sent by Email)

August 15, 2015

Re: Town of DePeyster, Town Clerk Operation-Tax Collection
Report of Examination – DRAFT, 2015M-91
Period Covered: January 1, 2013 – November 4, 2014

To Whom It May Concern:

The Town Clerk, [REDACTED], has resigned so she cannot respond to this draft report of examination.

Also, the Town of DePeyster has no "Official Stationery" with which to respond (see requirement 2 on page 3 of Responding to an OSC Audit Report.)

In regard to the Recommendations listed on page 10 of the draft report of examination:

1. The Board Actions:
 - a. Upon receipt of the final report of examination, I will forward the report to both the St. Lawrence County District Attorney's office and our insurance company in order to recoup the \$262 owed to the Town of DePeyster.
 - b. At the Town's Regular Meeting on January 12, 2015, the minutes list the Board's responsibilities as including an audit of the "...Town Clerk in August with current to prior year check statements and reconciliations and checking accounts and the Allen Tunnell trial balance report." See attached copy of the minutes. This did not happen this year since first the Town Clerk was suspended from her duties and then she resigned. The audit will occur and be presented at the September 2015 Board meeting.
2. The Clerk should:
 - a. The final examination report will be provided to the Acting Town Clerk.

Very truly yours,

Audrey Cienki
Acting Supervisor – Town of DePeyster

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to review the Clerk's records and procedures for collection and assess whether tax moneys were accurately accounted for. To achieve our audit objective and obtain valid audit evidence, we performed the following procedures:

- We interviewed the Clerk and Town officials to gain an understanding of the internal controls over collecting, recording, depositing, remitting and reconciling real property taxes in the Clerk's office and any associated effects of deficiencies found in those controls.
- We performed a cash count of the Clerk's office on November 4, 2014 to establish the amount of cash on hand since the last bank deposit for comparison with the Clerk's records.
- We obtained bank statements and bank deposit compositions for the tax account from 2010 through 2014 and compared the cash receipts deposited with those recorded in the cash receipts batch reports provided by the County Treasurer to determine if and when all moneys recorded were deposited and if all moneys deposited were recorded. We also reviewed the deposit compositions for the Clerk's recorded personal real property tax payments.
- We identified the range of the pay dates as recorded in cash receipt batch reports for 2013 and 2014 and compared them to the deposit dates to test the timeliness of deposits.
- We reviewed the County tax settlement and trial balance reports to determine whether the taxes collected in 2010 through 2014 agreed to the deposits, adjusted for any warrant adjustments and unpaid taxes.
- We performed a bank reconciliation and accountability analysis of the Clerk's tax collection account as of October 31, 2014 to determine if there were differences between the available cash and known liabilities. We investigated discrepancies identified and reviewed bank transaction activities following October 31, 2014.
- We reviewed all remittances made to the Supervisor for the Town's portion of the tax levy and all remittances made to the County Treasurer for residual collections from 2010 through 2014 to determine if they were made in a timely manner in accordance with Town Law.
- We reviewed interest and penalties collected for reasonableness and to determine whether all moneys collected from 2010 through 2014 were turned over to the Supervisor at the end of each tax collection period.
- We interviewed Town officials and reviewed the Board minutes to determine whether the Board conducted annual audits of the Clerk's financial records.

We conducted this performance audit in accordance with GAGAS. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX C

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