
**Thomas P. DiNapoli
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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**DEPARTMENT OF
TAXATION AND FINANCE**

**DESIGNATION OF CASES
AS UNCOLLECTIBLE**

Report 2006-S-112

AUDIT OBJECTIVE

Our objective was to determine whether the Department of Taxation and Finance complied with established procedures for designating delinquent tax cases as uncollectible.

AUDIT RESULTS - SUMMARY

The Department of Taxation and Finance's (Department) Division of Collection and Civil Enforcement (Division) is the in-house collection branch for the Department. The Division attempts to collect on delinquent tax cases through written correspondence, automated and manual telephone collections, and fieldwork conducted in district offices. When such steps are unsuccessful, a case is considered uncollectible and is no longer actively pursued.

The Division has established case completion guidelines which specify the minimum collection action required before a case can be designated as uncollectible. It also has established authority levels for its staff regarding which cases they may complete. These levels depend on the employee's title and the outstanding balance of the case.

To determine if cases were completed as uncollectible in accordance with the guidelines, we selected a judgmental sample of 490 cases of 230,090 completed as uncollectible in the central and district offices during our audit period. We found that Division employees generally adhered to Division guidelines prior to completing the cases as uncollectible for all 490 cases.

However, we found that, contrary to the Division's guidelines, clerical staff are able to designate cases as uncollectible. This capability existed because the Division's computer system edit function does not work

as intended and, therefore, some employees can use this system to complete cases that exceed their authority level. From our review, we found that the decisions to close the cases we tested were appropriate, although controls should be strengthened to prevent problems in the future.

Our report contains four recommendations to improve controls over the designation of cases as uncollectible. Department officials agreed with and have taken steps to implement our recommendations.

This report dated September 27, 2007, is available on our website at: <http://www.osc.state.ny.us>.

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Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The Department of Taxation and Finance (Department) administers the State's tax laws and serves as the State's general collection agency. The Department's Division of Collection and Civil Enforcement (Division) is the collection unit within the Department. Division employees are located in its central office and 11 district offices throughout the State. The Division attempts to collect on delinquent tax cases through correspondence, telephone collections, and fieldwork conducted by the district offices. Once such steps have been taken without success, collection is no longer actively pursued and the case is closed as uncollectible. The completion of an uncollectible case is not permanent. Cases can be reactivated if justified by an additional liability, changed taxpayer financial status, or reduced caseload inventories.

The Division has established case completion guidelines which specify the minimum collection action required before a case can be designated as uncollectible. It also has established authority levels for its staff allowing them to complete cases up to a certain dollar amount depending on their title (i.e., a Tax Compliance Representative/Agent I can complete cases up to \$5,000, a Tax Compliance Representative/Agent II can complete cases up to \$25,000, and a Tax Compliance Representative/Agent III and managers have unlimited authority to complete cases). The Department's Enterprise Service Division (ESD) developed a computer system edit to ensure that only designated staff complete cases within their authority level.

The Division prepares an Ad Hoc administrative report (Ad Hoc Report) on a quarterly basis that lists all cases completed or transferred by Division employees. To monitor the completion of uncollectible cases, the Division requires supervisors to randomly select and review 20 percent of the completed cases on the Ad Hoc Report and determine if all necessary steps were performed prior to completing the cases as uncollectible. These supervisory reviews must be documented in the Department's Case and Resource Tracking System (CARTS) which records assessments and collection activities.

For the fiscal year ended March 31, 2006, the Department collected over \$51 billion in State tax revenue and more than \$33 billion in local taxes on behalf of municipalities. According to the Ad Hoc Report, from January 1, 2004 through December 31, 2006, there were over 230,000 cases totaling \$3.2 billion that were over completed as uncollectible. The district offices completed nearly 53,000 cases totaling \$700 million and the central office completed 177,000 cases totaling \$2.5 billion.

AUDIT FINDINGS AND RECOMMENDATIONS

Completion of Uncollectible Cases

The Division requires employees to adhere to specific guidelines when deeming cases as uncollectible. Actions that must be attempted before a case is designated as uncollectible include issuing warrants, levies, Department of Motor Vehicles searches, responsible person assessments, employer and real property searches, and field visits.

To determine if cases were completed in accordance with these guidelines, we selected a judgmental sample of 490 from the 230,090 collection cases completed in both the central and district offices. We reviewed case summaries on CARTS and found that employees generally adhered to Division guidelines prior to completing the cases as uncollectible for all 490 cases.

Clerical Staff Authority

ESD established a program edit that is supposed to ensure that only designated staff have the ability to complete cases as uncollectible. In addition, the Division's case completion guidelines explicitly state that clerical staff cannot complete any case as uncollectible. However, we found the Division's practices did not comply with its guidelines. In meeting with Division officials we learned that the program edit was not preventing the clerical staff from completing cases as uncollectible. In fact, the clerical staff had unlimited authority to complete cases. During our audit period we identified 2,292 out of 230,090 cases, totaling \$155 million, were completed as uncollectible by clerical staff. In meeting with three district offices, we found that the need for clerical staff to complete cases is not necessary and

management at two district offices stated they were unaware of clerical staff's unlimited authority to complete cases as uncollectible.

We tested 57 of the 2,292 cases closed as uncollectible by clerical staff and found that there was appropriate support for closing the cases. For example, according to the Ad Hoc Report one unauthorized clerical person in the central office completed a case as uncollectible for \$22 million, while another one in the Capital Region district office completed a case for \$307,827. However, both the central office and Capital Region officials were able to provide documentation indicating the decision to complete the case as uncollectible was appropriate and approved by supervisory staff.

Division officials agreed that additional controls and corrected program edits are needed regarding access for clerical staff. While certain steps necessary to close cases will be clerical, the decision to complete a case as uncollectible will continue to be made by authorized Division staff.

Recommendation

1. Revise the program edit and related procedures to prevent clerical staff from completing cases as uncollectible.

Improper Authority to Complete Cases

The Division's computer system edit function is designed to allow employees with specified authority levels, based on their titles, to designate cases as uncollectible. However, we found this edit may not be working as intended, resulting in some employees completing cases above their specified authority.

In analyzing the Ad Hoc Report data, we identified 560 cases, totaling \$63 million, completed in the central and district offices by employees without the proper authority level. For example, one employee, with authority to complete cases up to \$25,000, completed a case for \$67,056. While reviewing the data and case summaries on CARTS, we found multiple instances where employees were able to complete cases as uncollectible above their authority level.

Officials at the Metropolitan and Westchester district offices stated they rely on the computer system edit to prevent employees from completing cases exceeding their authority level.

Further, we found that while the Division established case completion guidelines specifying authority levels for completing cases as uncollectible, they did not establish the appropriate monitoring controls to ensure the guidelines were adhered to. Although the Division requires supervisors to review a random sample of 20 percent of the cases completed as uncollectible, we found the Metropolitan district office officials had not received the Ad Hoc Report for about a year. Therefore, they did not conduct the required quality control reviews on 20 percent of completed cases. Division officials said they do not take steps to verify that the supervisor quality control reviews are conducted, documented and appropriate action is taken when deficiencies are found. Without conducting the required quality control reviews in a timely manner, neither the district nor central offices can effectively monitor the completion of cases.

The Department agrees that additional controls may be needed over the completion of cases as uncollectible. Additionally, the

Division will be working with ESD to ensure the system computes the current balance before allowing a case to be completed as uncollectible. In addition, the Division is verifying proper case completion is being done through the use of the Ad Hoc Report.

Recommendations

2. Modify the computer system edit function so employees can only complete cases within their authority level.
3. To effectively monitor the completion of cases as uncollectible, provide the quarterly Ad Hoc Report to the central and all district offices in a timely manner.
4. Periodically verify that quality control reviews of completed cases are conducted and documented on CARTS.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited the Division's designation of cases as uncollectible for the period January 1, 2004 through December 31, 2006. To accomplish our objective, we reviewed the Division's procedure manual for completing uncollectible cases. We met with Division and district office officials, and analyzed inventory reports, production reports and the Ad Hoc Report. We selected a judgmental sample of cases completed in each district office and the central office to determine if case completion guidelines were followed. We visited 3 of 11 district offices and tested controls over the completion of cases as uncollectible.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

REPORTING REQUIREMENTS

Draft copies of matters contained in this report were provided to Department officials for their review and comment. Their comments were considered in preparing this report. Department officials agreed with our recommendations. A complete copy of the Department's response is included in this report as Appendix A.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising

what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Kenneth I. Shulman, Arthur F. Smith, Cynthia A. Herubin, Ashley L. Nightingale, Jennifer E. Bachinsky, Shanna M. Mogan, and Sue Gold.

APPENDIX A - AUDITEE RESPONSE



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
W.A. HARRIMAN CAMPUS
ALBANY, NY 12227

Barbara G. Billel
Acting Commissioner

September 7, 2007

Mr. Kenneth Shulman
Audit Manager
Office of the State Comptroller
Division of Government Accountability
123 William Street, 21st Floor
New York, NY 10038

Dear Mr. Shulman:

Thank you for the opportunity to comment on the findings contained in the draft audit report entitled, "Designation of Cases as Uncollectible, (2006-S-112)." We appreciate the fact that the audit shows Department employees generally adhere to guidelines for designating delinquent tax cases as uncollectible and appropriately made the decision to complete cases as uncollectible. We offer the following points concerning the recommendations.

Recommendation 1:

Revise the program edit and related procedures to prevent clerical staff from completing cases as uncollectible.

Response:

We do not want to prevent clerical staff from completing cases; we want to prevent clerical staff from making the decision to complete the cases. As a practical matter we need to retain the ability to use clerical staff when needed to take the physical action of completing a case on the system, with the actual decision being determined by appropriate staff. We will make the appropriate changes to our procedures and pursue changes in the system with our Office of Information Technology Services. A best-case scenario would be the addition of fields in the system that records the person who authorized the transaction (i.e., a Tax Compliance Agent 2) as well as the person who records the transaction (i.e., clerical staff).

Recommendation 2:

Modify the computer system edit function so employees can only complete cases within their authority level.

Response:

We agree and have already made this request to our Office of Information Technology Services. However, you should be aware that it may not be practical for the system to compute a current balance of the completed case for this purpose.

Recommendation 3:

To effectively monitor the completion of cases as uncollectible, provide the quarterly Ad Hoc Report to the central and all district offices in a timely manner.

Response:

We agree and have taken steps to implement this recommendation. As noted in the audit report, the majority of central and district offices already use the Ad Hoc Report to monitor the completion of cases as uncollectible.

Recommendation 4:

Periodically verify that quality control reviews of completed cases are conducted and documented on CARTS.

Response:

We agree with this recommendation. As noted in the audit report, in the vast majority of cases this already occurs. We are considering having our Internal Risk Analysis team verify that quality control reviews are conducted by supervisors.

Sincerely,



Barbara G. Billet
Acting Commissioner