

Town of Milan

Town Clerk/Tax Collector

MARCH 2019



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Town of Milan

Audit Objective

Determine whether the Town Clerk/Tax Collector maintained adequate records and properly deposited and remitted money in a timely manner.

Key Findings

- Real property taxes totaling \$3.1 million in 2017 and \$3.0 million in 2018 were not always remitted to the Town Supervisor (Supervisor) and County Treasurer (Treasurer) in a timely manner.
- The Town Clerk (Clerk) improperly assessed \$1,650 in Town facility use fees to applicants during the audit period.
- Twenty-nine property tax payments totaling \$56,308 were deposited from one to 19 days late.

Key Recommendations

- Ensure that all real property taxes are deposited and remitted to the Supervisor and Treasurer in accordance with the law.
- Ensure that all Clerk fees are properly assessed and recorded.

Town officials agreed with our recommendations and indicated they will take corrective action.

Background

The Town of Milan is located in Dutchess County. It is governed by an elected Board (Board) which is composed of the Supervisor and four Board members. The Board is responsible for the general management and control of the Town's financial operations including an annual audit of the Clerk's cash collection activities.

The elected Clerk collects fees for birth and death certificates, marriage licenses, dog licenses and New York State Department of Environmental Conservation (DEC) licenses. The Clerk also serves as the Town Tax Collector and is responsible for the collection of Town and County real property taxes and remitting taxes collected to the Supervisor.

Quick Facts

Population	2,370
2017 Real Property Taxes Collected	\$3.12 million
2018 Real Property Taxes Collected	\$3.04 million
Town Clerk Fees Collected During Audit Period	\$6,032

Audit Period

January 1, 2017 – July 30, 2018

Town Clerk/Tax Collector

How Should the Tax Collector Record, Deposit and Remit Money Collected?

As Tax Collector, the Clerk is responsible for maintaining accurate and complete records and reports, timely deposit of all collections, disbursing tax collections to appropriate parties and preparing periodic bank reconciliations. New York State Town Law (Town Law)¹ requires the Tax Collector to deposit all real property tax money collected within 24 hours of receipt. All collections must be paid (remitted) to the Supervisor at least once each week until the Town's share of taxes is paid in full. The remaining collections must then be paid to the Treasurer not later than the fifteenth day of each month following the date of receipt.

How Should the Clerk Assess, Record and Deposit Money Collected?

The Clerk is responsible for receiving, recording, depositing, disbursing and reporting all money collected for Town Clerk fees. The Clerk should assess all fees in accordance with Board-approved rates, fee schedules or equivalent supporting documentation. Records and reports should be accurate and complete, and collections should be deposited in a timely manner, and as soon as possible to reduce the risk of theft or misplacement. Town Law² requires the Clerk to make deposits within three days of collections accumulating to more than \$250. The Clerk should also issue duplicate press-numbered receipts or equivalent documentation that indicates the payer, purpose, amount and date of receipt and form of payment (i.e., cash, check or money order) for each payment received.

Real Property Tax Collections Were Not Remitted in a Timely Manner

We reviewed the Clerk's real property tax records for the 2017 and 2018 tax collection periods to determine whether the Clerk remitted all applicable receipts to the Supervisor and Treasurer in a timely manner. The Clerk collected Town and County taxes of \$3.12 million in 2017 (\$1.49 million for the Town and \$1.64 million for the County) and \$3.04 million in 2018 (\$1.44 million for the Town and \$1.60 million for the County). We found that the Clerk did not always remit collections to the Supervisor or the Treasurer in a timely manner as required by law.

For example, in 2017 the Clerk collected \$929,290 from January 20, 2017 through February 8, 2017 before remitting any funds to the Supervisor. In addition, the Clerk did not remit all outstanding collections to the Supervisor at time of remittance. Her first remittance on February 9, 2017, which was 13 days late, totaled \$400,000, leaving \$529,290 of collections remaining in the tax collector bank account. The Clerk continued to make partial remittances until making the

¹ New York State Town Law Section 35

² New York State Town Law Section 30

final remittance to the Supervisor on March 2, 2017. If the Clerk remitted all taxes collected to the Supervisor on a weekly basis, as required, the Town's share of taxes would have been satisfied as early as February 21, 2017.

After the Town's share of 2017 taxes was satisfied, the Clerk continued to collect and deposit taxes on the County's behalf through May 31, 2017 but did not always remit collections to the Treasurer in a timely manner. For example, the Clerk's fourth and final remittance to the Treasurer, of \$437,570, contained \$107,841 of tax collections that were remitted 35 days late, and \$60,970 of tax collections that were remitted four days late.

Similarly, in 2018 the Clerk collected \$852,219 from December 29, 2017 through February 2, 2018 before remitting any funds to the Supervisor and did not remit all outstanding collections to the Supervisor at time of remittance. The Clerk's first remittance on February 5, 2018, which was 29 days late, totaled \$300,000, leaving \$552,219 of collections remaining in the tax collector bank account. The Clerk continued to make partial remittances until the final remittance to the Supervisor on March 12, 2018. If the Clerk had remitted all taxes collected to the Supervisor on a weekly basis, the Town's share of taxes would have been satisfied as early as February 16, 2018.

After the Town's share of 2018 taxes was satisfied, the Clerk continued to collect and deposit taxes on the County's behalf through May 31, 2018. As in the previous year, the Clerk did not always remit collections to the Treasurer in a timely manner. Her fourth and final remittance to the Treasurer of \$400,799 contained \$29,429 of tax collections remitted 41 days late, and \$120,920 of tax collections remitted 10 days late.

The Clerk, in her capacity as the Tax Collector, was unaware of the remittance requirements outlined in Town Law and did not receive any formal training regarding tax collector responsibilities. Therefore, she followed the same pattern of remittance as the previous Tax Collector. As a result, the Clerk's remittances to the Supervisor and Treasurer were not in compliance with Town Law. While all taxes collected were remitted to the Supervisor and Treasurer, the longer money remains unremitted, the less cash flow Town and County officials have to effectively fund operations, and the greater the risk of money being lost or misappropriated.

Fees Were Not Always Properly Assessed

The Clerk collected 396 cash receipts totaling \$6,032 during our audit period, consisting of fees for dog licenses, marriage licenses, hunting and fishing permits, certified copies of death certificates, and use of Town facilities. We reviewed 135 transactions³ and found that the Clerk improperly assessed 10 facility use fees totaling \$1,650.

Town officials rent the Town Hall community room and recreation park pavilion to residents and non-residents. According to the rental application, residents are not required to pay a fee and non-residents are charged a fee of \$50 for use of the park and \$250 for use of the community room. We reviewed all facility use applications completed during our audit period and found that the Clerk waived 10 fees totaling \$1,650 for non-resident applicants. The Supervisor told us that, although the applicant for use of the Town Hall or recreation facilities may not be a Town resident, often the facility was being reserved for a Town resident. The Clerk indicated that she knows most Town residents, and therefore does not usually require applicants who may not be Town residents to provide proof that the facility use is in fact for a Town resident. To verify that fees were not collected and subsequently stolen, we spoke separately with both the Supervisor and the Clerk who independently confirmed the process of waiving fees for residents. However, without adequate documentation of whether the facilities were rented by residents, the Town may have lost up to \$1,650 in revenues.

Deposits Were Not Always Made in a Timely Manner

The Clerk processed 3,378 real property tax payments totaling \$6,173,994 during our audit period. We reviewed 122⁴ real property tax payments, totaling \$280,308, to determine if deposits were made in accordance with Town Law. These transactions included 50 random tax payments, 34 payments processed during the penalty period, and 38 payments for properties owned by Town employees. We found that all fees were properly assessed (including penalties); however, during the 2017 and 2018 tax collection periods, 29 transactions totaling \$56,308 were deposited from one to 19 days late. The Clerk indicated that unforeseen events contributed to the untimely deposit of tax collections. The Clerk's extended absence in January 2018 contributed to a portion of the late deposits. Partially as a result of these circumstances, the Clerk's deposits were not made in compliance with Town Law, increasing the risk of receipts being lost or stolen.

Duplicate Receipts Were Not Always Issued

The Clerk collected a total of 396 cash receipts totaling \$6,032 during our audit period, consisting of fees for dog licenses, marriage licenses, hunting and fishing permits, certified copies of death certificates, and Town facility usage. We reviewed 55 transactions totaling \$1,299 and determined that adequate

³ We selected a random sample of 55 transactions from the Clerk's financial application and a sample of 80 source documents. Our source documents included a random sample of dog licenses and all marriage licenses, seized dog applications, certified copy requests, and facility use agreements processed during the audit period.

⁴ We selected a random sample of 50 tax bills from the tax roll and a random sample of 34 transactions from the tax collector batch reports that were assessed during penalty periods. We also judgmentally selected 38 tax bills from the tax roll for employees of the Town.

source documentation indicating the date and amount of receipt was not always available. We found 33 transactions totaling \$973 that had no press-numbered receipt indicating date and amount of receipt, or equivalent documentation. The Clerk indicated that most applicants do not request a receipt, so she does not create any. As a result, the Clerk's records lack a sufficient audit trail for tracing and verifying each transaction processed.

What Do We Recommend?

The Clerk should:

1. Remit amounts collected to the Supervisor and Treasurer in accordance with Town Law.
2. Assess all fees in accordance with Board-established fee schedules or equivalent supporting documentation.
3. Deposit all cash receipts as soon as reasonably possible and in accordance with limits established by Town Law.
4. Issue and retain a press-numbered duplicate receipt or equivalent supporting documentation for all fees collected.

Appendix A: Response From Town Officials⁵

TOWN OF MILAN

Wilcox Memorial Town Hall
20 Wilcox Circle
Milan, N.Y. 12571



Tel. (845) 758-5133

Fax 758-0445
www.milan-ny.gov.

The Town of Milan's Audit Response and Corrective Action Plan

The members of the Milan Town Board received a copy of the draft preliminary findings related to the town clerk/town tax collector, dated January 31, 2019, which contained four recommendations having to do with those offices. The Milan Town Board has reviewed the audit and the recommendations and makes the following adjustments to procedures.

1. "Remit amounts collected to the Supervisor and Treasurer in accordance with Town Law."

1a. The Milan Town Board agrees.

Taxes collected will be and are being remitted to the supervisor on a weekly basis, and when all the funds due the town has been remitted to the supervisor, the taxes collected for the county will be remitted on or before the 15th of each month.

2. "Assess all fees in accordance with Board-established fee schedules or equivalent supporting documentation."

2a. The Milan Town Board agrees

To clarify the collection of fees due to the town, the Milan Town Board passed the attached motion at its February 18, 2019 meeting. Further, the town clerk will require proof of residency by checking the applicant's address against the assessment rolls.

⁵ The Town's response letter includes a reference to an attached document. Because the purpose of this document is sufficiently explained, we did not include it here.

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3. “Deposit all cash receipts as soon as reasonably possible and in accordance with limits established by Town Law.”

3a. The Milan Town Board agrees

The town clerk/town tax collector will deposit all receipts as required by state law.

4. “Issue and retain a press-numbered receipt or equivalent supporting documentation for all fees collected.”

4a The Milan Town Board agrees.

. The town clerk/town tax collector will issue press-numbered receipts where appropriate and maintain a detailed log book daily identifying all other receipts.

Respectfully submitted,

William Gallagher

Milan Supervisor

Appendix B: Audit Methodology and Standards

We conducted this audit 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed the Clerk and Town officials to gain an understanding of internal controls over collecting, recording, depositing, remitting and reconciling money collected by the Clerk, and to determine whether policies and procedures were in place for Clerk operations.
- We reviewed Board minutes and monthly and annual reports provided to Board members to determine the extent of financial information received by the Board.
- We determined whether the Clerk remitted all real property tax collections to the Supervisor and Treasurer in a timely manner for the 2017 and 2018 tax collection periods by comparing disbursements from bank statement activity and check images to transactions in the financial software.
- We selected a random sample of 55 transactions from the Clerk's financial application and a sample of 80 source documents. Our source documents included a random sample of dog licenses and all marriage licenses, seized dog applications, certified copy requests, and facility use agreements processed during the audit period. We compared fees assessed by the Clerk to recalculated fees to determine if fees were properly assessed. We also traced each transaction to the source document, deposit slip, deposit receipt and bank statement to determine whether they were deposited timely and intact.
- We selected a random sample of 50 tax bills from the tax roll and a random sample of 34 transactions from the Tax Collector batch reports that were assessed during penalty periods. We also judgmentally selected 38 tax bills from the tax roll for Town officials and employees by comparing the Town's employee master list to all tax bills on the tax roll, and selecting all instances of a tax bill in a Town official's or employee's name. We traced each transaction to the tax bill, deposit slip, deposit receipt and bank statement to determine whether they were deposited within 24 hours in accordance with Town Law, and intact.
- We selected a random sample of 55 transactions processed by the Clerk during our audit period and reviewed the Clerk's source documents for evidence of press-numbered receipts or equivalent documentation that indicates the payer, purpose, amount, date of receipt and form of payment (i.e., cash, check or money order) for each payment received.
- We reviewed all 50 transactions for the issuance of hunting and fishing permits processed by the Clerk during our audit period, and compared the entry data, including date, total amount, and form of payment to individual

transactions processed in the Clerk's DEC daily sales reports, to determine whether the Clerk properly recorded transaction information in the Town's financial system.

- We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). 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.
- Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.
- A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided 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 the CAP available for public review in the Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

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www.osc.state.ny.us/localgov/index.htm

Local Government and School Accountability Help Line: (866) 321-8503

NEWBURGH REGIONAL OFFICE – Tenneh Blamah, Chief Examiner

33 Airport Center Drive, Suite 103 • New Windsor, New York 12553-4725

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