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April 2018

Tom Garretson, Supervisor
Members of the Town Board
Town of Cherry Valley
2 Genesee Street
Cherry Valley, NY 13320

Report Number: P4-17-26

Dear Supervisor Garretson and Members of the Town Board:

A top priority of the Office of the State Comptroller is to help Town officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support Town 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 governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of 10 towns throughout New York State. The objective of our audit was to determine whether town assessors are properly administering select real property tax exemptions. We included the Town of Cherry Valley (Town) in this audit. Within the scope of this audit, we examined Agricultural,¹ Persons 65 Years of Age or Older (Senior Citizens)² and Veterans³ exemptions for the period January 1, 2016 through May 24, 2017. 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 report of examination letter contains our findings and recommendations specific to the Town. We discussed the findings and recommendations with Town officials and considered their comments, which are included in Appendix A, in preparing this report. Town officials generally agreed with our recommendations and indicated they plan to initiate corrective action. At the completion of our audit of the 10 towns, we prepared a global report that summarizes the significant issues we identified at all of the towns audited.

¹ Section 305 of the Agriculture and Markets Law and Section 483 of the Real Property Tax Law

² Section 467 of the Real Property Tax Law

³ Sections 458, 458-a and 458-b of the Real Property Tax Law

Summary of Findings

The Assessor did not properly administer select real property tax exemptions. Specifically, the Assessor did not maintain adequate supporting documentation and incorrectly calculated or classified a number of granted real property tax exemptions. As a result, we could not verify whether property owners received appropriate tax reductions totaling as much as \$19,800. If exemptions were not properly granted, it could have resulted in higher property tax bills for other residents. Additionally, the County did not update the real property tax system to reflect a 2008 local law, resulting in residents who received certain Veterans exemptions paying higher tax bills. The failure to maintain adequate records, require annual renewals, verify and review information annually or correctly calculate exemptions increases the risk that individuals could receive exemptions to which they are not entitled on future tax rolls.

Background and Methodology

The Town is located in Otsego County, includes the Village of Cherry Valley, covers 40 square miles and has approximately 1,220 residents. The Town's 2017 budgeted appropriations totaled \$1.8 million. Major costs included road maintenance and improvements, snow removal and general government support. These costs are funded primarily through real property taxes and sales tax distributed by the County.

The Town is governed by a five-member Town Board (Board). The Town Supervisor (Supervisor) is a Board member and serves as the chief executive and chief fiscal officer. The Town Assessor (Assessor) is responsible for granting and tracking real property tax exemptions within the Town's boundaries, including the County, Village and school districts. The Assessor determines the assessed values of properties each year for the assessment roll (2016), which is then used to create the tax bills for the following year's County, Town and School tax rolls (2017) and Village tax roll (2018). The Assessor is responsible for retaining a properly completed application form and additional supporting documentation that a property was eligible for an exemption. The Town had approximately 1,000 parcels totaling \$103 million in total taxable assessed value in 2016, with 182 Agricultural, Senior Citizens and Veterans exemptions totaling \$7.4 million in assessed value. The Assessor was appointed on October 1, 2007 and also serves three other towns. The Assessor works eight hours per month at the Town.

To complete our audit objective, we reviewed Agricultural, Senior Citizens and Veterans exemptions documentation for accuracy and propriety. We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). More information on the standards and the methodology used in performing this audit are included in Appendix B of this report. 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.

Audit Results

To properly administer real property tax exemptions, the Assessor needs to ensure applicants meet eligibility requirements and receive the proper calculated exemption amount. The Assessor should also verify that exemption codes are properly selected and amounts are properly calculated in the Real Property Tax System. Lastly, the Assessor should also retain supporting documentation for those granted exemptions and consult with the New York State Office of Real Property Tax Services (ORPTS) or the Otsego County Real Property Tax Services Office, as necessary, for technical assistance.

Agricultural – The Agricultural exemption generally requires an average annual gross sales over the previous two years of \$10,000 for farms with seven or more acres of land, or \$50,000 for farms of less than seven acres. Property owners may also lease acreage to eligible farmers and receive an Agricultural exemption. Property owners receiving certain Agricultural exemptions are required to file a renewal form each year certifying the property remains eligible for the exemption. Although the renewal form does not require proof of income, Assessors should be periodically verifying farm income to ensure the property remains eligible.

Seventeen of the 20 properties we reviewed receiving an Agricultural exemption lacked one or more pieces of supporting documentation to verify the eligibility of these exemptions. For example, one property did not have an original application, proof of income or soil group worksheet, and the remaining 16 properties lacked proof of income and/or the original application. Additionally, three properties had expired leases or lease affidavits with no additional documentation indicating the leases were renewed. As a result of our audit, the Assessor obtained proof of income for seven of the 16 original applications and the current lease agreements. The remaining property owners with unsupported exemptions may have inappropriately received \$9,000 in County, Town and School tax reductions for fiscal year 2017 and Village tax reductions for fiscal year 2018.

In addition, one exemption was not applied to the Village taxable assessment and resulted in the owner paying a slightly higher tax bill for fiscal year 2018. Because of this error, we also reviewed the assessment roll for any similar errors, and found an additional four exemptions that were not applied to the Village taxable assessment, resulting in the owners paying \$334 more in Village taxes for fiscal year 2018. Lastly, the Assessor does not periodically verify farm income when property owners submit their renewal forms.

Senior Citizens – The Senior Citizens exemption requires the property be used exclusively for residential purposes and owned by a person 65 years or older (with some familial exceptions), with varying income limits established by each municipality. Residents receiving the Senior Citizens exemption are required to file a renewal form each year, along with supporting documentation to show their income is below the threshold.

Seven of the 10 properties we reviewed receiving a Senior Citizens exemption lacked one or more pieces of supporting documentation to verify the eligibility and accuracy of these exemptions. Specifically, six lacked income support, one lacked income support and proof of age eligibility and two received the exemption although the reported income was greater than the threshold. This may have resulted in property owners inappropriately receiving a total of \$10,400 in County, Town

and School tax reductions for fiscal year 2017 and Village tax reductions for fiscal year 2018. Lastly, one exemption was not applied to the Village taxable assessment and resulted in the property owner paying \$215 more in Village taxes for fiscal year 2018.

Veterans – Requirements related to Veterans exemptions vary, but typically include that the primary residence is of a veteran (or a qualifying family member) of the United States Armed Services who actively served during certain eligible time frames or received an expeditionary medal and was discharged under honorable conditions. Towns may pass local laws that establish these exemptions, as well as raise or lower the maximum amount that a single property may be exempt from. Furthermore, disabled veterans may receive an additional exemption based on supporting documentation.

We reviewed 20 properties receiving 24 Veterans exemptions and found one exemption lacked supporting documentation. This property owner may have inappropriately received \$157 in County and Town tax reductions for fiscal year 2017. We also found three property owners had their exemptions misclassified, resulting in two of the owners inappropriately receiving \$230 in County and Town tax reductions for fiscal year 2017 and Village tax reductions for fiscal year 2018, while the remaining owner paid \$104 more in County and Town taxes for fiscal year 2017. Another Veterans exemption was misclassified and has not received the additional disability exemption since applying in 2010, resulting in the owner paying \$571 more in taxes for fiscal year 2017. Lastly, we found six of the exemptions were not applied to all eligible tax assessments, resulting in the owners losing \$469 in Town and Village tax reductions for fiscal years 2017 and 2018, respectively.

Because of this error, we reviewed the assessment roll and found an additional six exemptions that were not applied to all eligible tax assessments, resulting in the owners paying \$380 more in Town and Village taxes for fiscal years 2017 and 2018, respectively. Many of these incorrectly applied exemptions occurred because the Real Property Tax System was not updated to reflect a 2008 Town approved Veterans exemption, and the Assessor was not aware that the update was not implemented.

Granted exemptions reduce the taxable assessed value of a property and, therefore, the owner's tax payment. To ensure the Town's tax levy is fair and equitable, it is important that the Assessor determine every exemption is legitimate. The Town granted a total of 530 of these exemptions on the 2016 assessment roll, collectively reducing the taxable assessed value by more than \$22 million. We found exceptions with 71 of the 145 exemptions reviewed (Figure 1). These properties with exceptions had their total taxable assessed value reduced by almost \$3 million.

Figure 1: Fiscal Year 2017 Real Property Exemptions and Exceptions					
Local Government Type	Total Exemptions^(a)	Total Exempted Value^(a)	Total Number of Exemptions Tested	Exceptions Identified from Records	Total Exempted Value of Exceptions
County	190	\$7,655,393	53	21	\$903,451
Town	182	\$7,354,939	50	25	\$914,640
Village	17	\$431,624	11	9	\$283,218
School	141	\$6,782,380	31	16	\$798,639
Totals	530	\$22,224,336	145	71	\$2,899,948
^(a) This includes only Agricultural, Senior Citizens and Veterans exemptions categories.					

Every exemption shifts the tax burden to the non-exempt properties. Therefore, the high rate of exceptions noted above (49 percent) can cause inequity among taxpayers for financing local government operations to the extent that exemptions are inappropriately given. The total exempted value for these three exemption categories is over 7 percent of the Town's taxable assessed value. Although some of these errors began prior to the Assessor's term, some continue unresolved.

Recommendations

The Assessor should:

1. Ensure all applicants provide adequate supporting documentation before granting exemptions.
2. Correctly apply statutory provisions to granted exemptions and consult with ORPTS or Otsego County Real Property Tax Services Office, as necessary, for any technical assistance.
3. Maintain documentation to support eligibility for all exemptions.
4. Annually verify income to support Agricultural and Senior Citizens exemptions.
5. Ensure previously granted exemptions are supported and continue to meet eligibility requirements.
6. Review the assessment roll exemption summary annually for noticeable errors and make necessary changes.

The Board should:

7. Consult the Town's attorney regarding recovery and the potential legal and financial impacts the Town may face from prior years' erroneous exemptions.

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.

We thank the officials and staff of the Town for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

Town of Cherry Valley

Established 1740

Supervisor

Thomas Garretson

Town Clerk

Mary Beth Flint

Superintendent of Highways

Tony Miles

Council Members

Jim Johnson

Mark Cornwell

Holly Waterfield

Edward Vanderwerker

Audit Report Title: Town of Cherry Valley Assessor's Office

Audit Report Number: P4-17-26

The Town of Cherry Valley appreciates the Office of the State Comptroller's coming in to complete this audit and report. The recommendations have proved to be enlightening into several areas of the Assessor's responsibilities that may improve her operations and strengthen the processes by which she is governed.

This letter is meant to serve as the Audit Response as well as the Corrective Action Plan.

We agree with several of the recommendations reported and have amended procedures to satisfy these recommendations. In addition, the assessor has already performed any changes of incorrect findings before the final roll 2017-2018.

Audit Recommendation:

1. "Ensure all applicants provide adequate supporting documentation before granting exemptions."

It is my understanding that in most of the cases where supporting documentation was not in the file prior to granting an exemption, that the information has been independently verified. A few instances of the audit showed supporting documentation missing due to the record keeping of past assessor's and information being handed down several times prior to the current assessor taking over.

Plan of Action(s):

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Council Members

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Holly Waterfield
Edward Vanderwerker

The recommendation has been explained and implemented. We agree with the report that records, shall be better documented. The assessor will keep photocopies of all supporting documentation before granting all exemptions in the file.

- 2. "Correctly apply statutory provisions to granted exemptions and consult with ORPTS or Otsego County Real Property Tax Services Office, as necessary, for any technical assistance."

Statutory provisions to granted exemptions will be checked more thoroughly moving forward.

Plan of Action(s):

The recommendation has been explained and implemented. Assessor will keep up to date and research past laws in order to comply fully with local laws.

- 3. "Maintain documentation to support eligibility for all exemptions."

Documents such as licenses, DD214's, Soil Group Worksheets and Tax Returns/Income are all documentation to support eligibility for different exemptions maintained in the assessor's office. Original documentation to support eligibility for the exemptions are kept in each file folder arranged by tax map number. Income is sometimes missing as the Assessor has previously accepted the signed certifications of the homeowner/landowner's as proof of eligibility. There is 1 case where a license is not provided in the work file. Assessor has independently verified this person is over 65.

Plan of Action(s):

Continue maintaining documentation to support eligibility for exemptions. Request replacement information and documentation to support eligibility of those items not in the file.

- 4. "Annually verify income to support Agricultural and Senior Citizen's exemptions."

The homeowner's that are receiving the Senior Citizen Exemption and Agricultural

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Exemption are required to sign documents each year to renew their eligibility for exemptions that have been reported about in this audit. The assessor keeps a record of homeowner's that have returned their renewal each year. There are certain eligibility requirements that the homeowner's must meet. They certify with their signatures that they meet the requirements and are not requested to submit proof (ie: a copy of tax return or photocopies of their SSI and/or other income) on the provided renewal application that is written up by ORPTS.

The Partial Tax Exemption for Real Property of Senior Citizen's is a low-income exemption with space for writing in income and sources of income. In addition the homeowner's are required to sign a Certification which states the following:

"Certification

I (we) certify that all statements made on this application are true and correct to the best of my (our) belief. I (we) understand that any willful false statement of material fact will be grounds for disqualification from further exemption for a period of five years, and a fine of not more than \$100."

The assessor has previously accepted this signed renewal, along with their penned-in income as an affirmation of the fact that they are not falsifying information when more information was not provided.

The Agricultural Exemption also has a signed renewal each year. Prior to October 2012 the income was included on this renewal each year. ORPTS has since changed the form and asks that the landowner's certify to the following with their signatures:

"I have reviewed the last agricultural assessment application (Form RP-305) that was filed for this farm operation, as well as the instructions that accompany this renewal certification, and I hereby certify that each of the following statements of fact is true:"

- The last agricultural assessment application (Form RP-305) for this land was filed in 20 _____.
- Since that application was filed, there has been no change in the ownership or total acreage of this parcel, or in the classification of its soils.
- The land is still being used in the same manner as specified on that application, and there has been no change in the acreage devoted to each use.
- At least one of the following conditions is satisfied:
 - o The land consists of seven acres or more and generated the required \$10,000 or more in average gross sales value, annual gross sales value or average gross receipts, whichever was applicable; or
 - o The land consists of less than seven acres and generated the required \$50,000 or more in average gross sales value, annual gross sales value or average gross receipts, whichever was applicable; or
 - o No such requirement applied to this land because it qualified as either a newly-planted orchard or vineyard, a newly-established Christmas tree operation, or land used by a not-for-profit institution for eligible agricultural research.

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• If the Form RP-305 indicated that rented land was being used in conjunction with the parcel(s) for the production of agricultural products for sale, the same land is being rented, the same person is continuing to rent it under the same written rental agreement, and, if the rented land does not independently satisfy the gross sales value requirement, it is used in conjunction with qualifying land.

I understand that I must maintain records confirming that each of these statements is true, and that I must supply those records to the assessor upon his or her request. I understand that any false statements on this form are punishable by law. I further understand that converting this land to a non-agricultural use may subject it to penalties and/or payments based on the amount of taxes owed."

The assessor has previously accepted this signed renewal as an affirmation of the fact that they are not falsifying information and remain qualified for the exemption.

Plan of Action(s):

The recommendation has been explained and implemented. Going forward, the Assessor will request photocopies of all income from those benefiting from the Partial Tax Exemption for Real Property of Senior Citizen's. It is agreed that this income should be collected as a great preventative action against fraud in the town.

Typically, in small towns like this one, the farmer's are well-known and have historically been verified through the assessor's knowledge of the area and condition of the land. We agree with the report that income, for instances like this (audit) shall be better documented in order to verify the farmer's meet the qualification each year to others that are not as familiar with the area. The assessor will keep photocopies of all supporting documentation (income) before approving the renewal each year. It is requested that ORPTS add something to the effect that this documentation is going to be required by the assessor each year since there is no mention of submitting additional documentation on the renewal. Also, as much of the land is rented to farmer's, and not being farmed by the land owner themselves, it would be appreciated if a system can be suggested to ORPTS and/or the assessor to arrange for independent income verification of the farmer, as many would not like to share their income with the landowner's themselves.

- 5. "Ensure previously granted exemptions are supported and continue to meet eligibility requirements."

Original documentation to support eligibility for the exemptions are kept in each file folder arranged by tax map number. There are a few documents that have gone missing over the year's

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which are most likely miss-filed in a different folder. Assessor has worked hard to correct and hunt down any missing documentation, however through many changing of hands with the files, there are still some documents that have not been recovered. Going forward, the assessor will collect income in order to verify that the exemption eligibility requirements continue to be met.

Plan of Action(s):

- Continue maintaining documentation to support eligibility for exemptions. Request replacement information and documentation to support eligibility of those missing.
- Request on-going verification each year of income for the Agricultural Exemption land and Senior Citizen Exemption.

6. "Review the assessment roll exemption summary annually for noticeable errors and make necessary changes."

Going forward, the assessor will more thoroughly review the summary pages of the assessment roll for noticeable errors and make corrections as necessary.

Plan of Action(s):

- Assessor agrees to review the assessment roll exemption summary each year for errors and to make changes where needed.

10-20-17

THOMAS GARRETSON
SUPERVISOR

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We reviewed Board minutes and applicable local legislation to gain an understanding of the audit scope. We inquired with the Assessor about the real property exemption process and record keeping requirements.
- We randomly selected 20 properties with an Agricultural exemption totaling \$3.7 million in assessed value for further testing. We reviewed the original application⁴ to determine whether all required documentation was submitted. This included a soil survey from the Soil and Water Conservation District, if available. We reviewed any income support to determine whether the farmer met the minimum requirements. If applicable, we also determined whether the property had a current Agricultural exemption renewal form on file. If the property was leased to another farmer, we determined whether there was a current lease on file. We then recalculated the exemption for 10 of the 19 properties with available supporting documentation to determine whether the property received the proper exemption amount. We also performed an aerial observation of the property using mapping software to verify the property did not appear fallow or uncultivated. We then calculated the tax dollar effect of any exceptions found.
- We reviewed the assessment roll for any apparent irregularities in exemptions granted and selected all four additional properties with an Agricultural exemption totaling \$104,500 that did not appear to be applied against all eligible tax assessments. We then calculated the taxable effect of these errors.
- We randomly selected 10 properties with a Senior Citizens exemption totaling \$1.1 million in assessed value for further testing. We verified the income reported meets the eligibility as established by each municipality. We noted whether any record of income or age was retained. We then calculated the tax dollar effect of any exceptions found.
- We randomly selected 20 properties with a Veterans exemption totaling \$3.5 million in assessed value for further testing. We reviewed the record retained in the property folder to justify the exemption. We recalculated the exemption amount to verify the property received the appropriate exemption amount.
- We reviewed the assessment roll for any apparent irregularities in exemptions granted and selected all six additional properties with a Veterans exemption totaling \$886,600 that did not appear to be applied against all eligible tax assessments. We then calculated the taxable effect of these errors.

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

⁴ https://www.tax.ny.gov/pdf/current_forms/orpts/rp305_fill_in.pdf

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.