



ULSTER COUNTY REAL PROPERTY TAX INSTALLMENT AGREEMENTS AUDIT

**Office of the
Ulster County Comptroller
March S. Gallagher**



ULSTER COUNTY OFFICE OF THE COMPTROLLER

March S. Gallagher, Esq.
Comptroller



Charles Dinstuhl, CPA
Deputy Comptroller

December 2024

To the Residents of Ulster County:

I am pleased to announce that my office has completed an audit of Ulster County's real property tax installment agreements. This audit was paused at the request of the Office of the New York State Comptroller (OSC) while their investigation into the activities of the former Ulster County Commissioner of Finance was ongoing. Upon release of OSC's investigation and report, we are now able to share this audit report with you.

The audit reviewed 2022 and 2023 installment agreements for delinquent real property taxes and the payments associated with those contracts received between January 1, 2022, and March 1, 2024.

Our objectives were to ensure the accuracy, completeness, and compliance of installment contracts with established Ulster County policies and procedures. This audit was prompted by internal control issues identified in our previous audit of real property tax collections published in 2023.

The audit found that the County does not strictly adhere to the terms of installment agreement contracts by appropriately applying late fees and interest. Under the new Commissioner of Finance and with the adoption of new software, the process is being improved. Furthermore, the audit found that the former Commissioner of Finance signed a contract with an immediate family member, who became delinquent on the agreement and was only made current upon the resignation of the former Commissioner.

We recommend that the Finance Department ensure that agreements are kept current with procedures that ensure consistent enforcement of interest and penalties.

Thank you to the staff of the Ulster County Department of Finance for their assistance in facilitating this audit. If we can be of assistance to you, or if you have any questions concerning this report, please feel free to contact us.

Yours truly,

A handwritten signature in blue ink that reads "March Gallagher".

March Gallagher
Comptroller



ULSTER COUNTY OFFICE OF THE COMPTROLLER

Ulster County Real Property Tax Installment Agreements Audit

comptroller.ulstercountyny.gov

Released December 2024

Objectives

The objective of the audit was to assess the accuracy, completeness, and compliance of installment contracts with established policies and procedures, prompted by internal control issues identified in our previous audit of real property tax collections.

Testing included:

- Verifying payments are made in a timely manner and are up to date.
- Ensuring that payments are processed according to contractual terms, with a focus on identifying any instances of late or missed payments and the application of late fees.
- Evaluate the effectiveness of internal controls in place to monitor and track payment schedules, ensuring adherence to contractual obligations and minimizing the risk of default.

Executive Summary

Why this audit is important

This audit aims to ensure the accuracy, completeness, and compliance of installment contracts with established policies and procedures. This initiative was prompted by internal control issues identified in our previous audit of real property tax collections. By verifying that payments are timely and up to date, ensuring they are processed according to contractual terms, and evaluating the effectiveness of internal controls in monitoring payment schedules, this audit seeks to identify any instances of late or missed payments and the application of late fees. Ultimately, the audit is designed to ensure adherence to contractual obligations, minimize the risk of default, and eliminate subjectivity amongst taxpayers, thereby enhancing the integrity and reliability of our financial operations.

What we found

Our review of 138 installment contracts indicated that the payment collection process must be improved by strictly enforcing late fee application and terminating contracts for non-payment in accordance with the law. Additionally, the former Commissioner of Finance signed a contract with an immediate family member, who stopped payments after the second installment. No action was taken to address this until the Commissioner left abruptly on March 1, 2023, when all overdue payments were made within five days. This action by the former Commissioner, now jailed for embezzlement from a local nonprofit, raises concerns of possible preferential treatment.

What we recommend

The former Commissioner of Finance did not prioritize internal controls, resulting in a lack of checks and balances for applying interest and penalties to late tax collections. We recommend that the new Commissioner implement a robust system to keep tax agreements current and apply appropriate penalties and interest, ensuring taxpayers are aware of the consequences of defaults. Any deviations from contracts should be documented. Additionally, introducing a secondary sign-off for installment contracts will help maintain process integrity and ensure all conditions are met. Lastly, the Department of Finance should adjust procedures and fully explore the capabilities of the new tax collection software, Total Collection Solution, to automate late interest and penalties.

Findings & Recommendations

Condition: The County does not strictly adhere to the terms of installment contract agreements.

Out of the 138 contracts reviewed, 52 participants made late payments at least once. Among these, 33 cases had the potential to be canceled and necessitate full payment of the remaining delinquent taxes or trigger foreclosure proceedings. Furthermore, 151 late payments were identified, 54 with enough detail to determine that the applicable 5% penalty fee was not enforced, and 49 late payments were identified with enough detail to determine that the late interest fee was not consistently applied.¹ Late payment penalties may be applied if any installment is not paid by the end of the 15th calendar day after the payment due date.

[1] Of the 151 agreements identified, 7 contracts did not have enough information to determine if interest and penalties were imposed.

During our audit, it was noted that the former Commissioner of Finance signed a contract on behalf of the County with an immediate family member. The installment contract matched the terms given to other delinquent taxpayers, however the County stopped receiving payment after receipt of the second installment. There was no proof of effort to ensure the payments were to be kept current, nor was the contract canceled. However, once the Commissioner abruptly left his position on March 1st, 2023, all overdue payments were made current within five days. The taxpayer had been delinquent for three months. Given that the former Commissioner is now in jail for embezzling, this situation calls into question whether he was giving his family member preferential treatment.

Effect:

Being in an installment contract to pay delinquent taxes already provides significant leeway to property owners, offering them an additional opportunity to manage their obligations without facing immediate penalties. Therefore, applying late fees and interest in the collection process of past due property taxes is crucial for encouraging timely payments, ensuring fairness, and compensating the County for revenue loss. These financial deterrents motivate property owners to pay on time, maintaining a steady revenue flow essential for public services. They also promote equity by ensuring all property owners contribute fairly, preventing timely taxpayers from subsidizing late payers. Additionally, interest charges compensate for lost revenue and the administrative burden of chasing overdue payments, allowing tax authorities to focus on other essential tasks.

Cause:

The previous property tax collection system lacked the ability to automatically apply late interest and fees once payments were overdue. Moreover, the culture in the Ulster County Department of Finance under the former Commissioner of Finance discouraged questioning and maintained isolated positions, which sometimes hindered the department's efficiency.

Criteria:

The law and policy of the County, Chapter 312, Article VI Installment Payment and Delinquent Taxes, § 21 states:

“If an installment is not paid on or before the date it is due, interest shall be added at the rate prescribed by New York State Real Property Tax Law § 924-a for each month or portion thereof until paid. In addition, if any installment is not paid by the end of the 15th calendar day after the payment due date, a late charge of 5% of the overdue payment shall be added.”

Additionally, § 22 specifies that the property owner will be in default if any installment remains unpaid for 30 days after the due date. In such an event, the County has the right to demand the entire unpaid balance and to initiate foreclosure proceedings.

Recommendation 1:

The former Commissioner of Finance did not prioritize internal controls within the Department of Finance. Consequently, there were no checks and balances in place to ensure that interest and penalties were applied to late tax collections. We recommend that the new Commissioner implement a robust system to achieve two goals: first, to ensure that tax agreements are kept current, striving to eliminate late payments entirely; and second, to apply the appropriate penalties and interest, ensuring taxpayers are fully aware of the consequences of defaulting on their contracts. Additionally, if for some reason a contract must be deviated from for reasons the Commissioner finds valid those should be documented for future reference. Furthermore, although the law designates the Commissioner of Finance as the sole authorizing officer for installment contracts, it is always beneficial to have a secondary sign-off. This could help to ensure that all conditions are met and, in the event of a conflict of interest, maintains the integrity of the process.

Recommendation 2:

We recommend that the Department of Finance adjust their procedures with respect to installment agreements, which they might already be refining while addressing issues with the new tax collection software, Total Collection Solution. This adjustment will help ensure their process aligns with the goal of keeping taxpayers current on past-due taxes. Additionally, the new software may have the capability to automatically apply late interest and penalties as payment deadlines pass, and this feature should be thoroughly explored.

Scope

The scope of our audit included review of the 2022 and 2023 property tax installment contracts and payments for the period from January 1, 2022, through March 1, 2024.

We reviewed 138 installment contracts to ensure the terms for taxes due entered by each party were adhered to and that all payments were collected according to the County's financial software system.

Background

The Office of the Ulster County Comptroller conducted an initial audit of real property tax collection procedures, focusing on properties excluded from foreclosure, as detailed in the March 29, 2023, audit release: (<https://comptroller.ulstercountyny.gov/audit-reports/real-property-tax-audit-management-comment-and-exhibits>). Our examination highlighted areas for enhancement in maintaining supporting documentation, prompting a more comprehensive review.

Our findings underscored that a significant factor in properties being withdrawn from foreclosure proceedings was property owners entering installment agreements with the County to settle outstanding taxes over specific periods.

Simultaneously, the County commenced the implementation of new software (Total Collection Solution) aimed at enhancing management of real property tax collections. We anticipate that addressing the internal control issues identified in both this and previous audits will be facilitated as we advance towards full Total Collection Solution implementation, thereby bolstering our capability to report, track, and reconcile transactions effectively.

Conclusion

The examination of installment contract payment collections found that late payments often lacked the correct application of interest and penalties, and there were insufficient checks and balances to prevent this. While the internal control risks identified in our previous audit have not yet been mitigated, we believe that most of these risks will be addressed by incorporating our recommendations along with the implementation of Total Collection Solution software. This will aid the County in managing all aspects of the collection of real property taxes, will ensure agreement between the financial software systems that the County uses, and will allow for better monitoring of payments posted to the system via user access and transaction monitoring reports.

Throughout this audit, the Department of Finance demonstrated exceptional cooperation and responsiveness. We sincerely appreciate their dedication and support.

ULSTER COUNTY DEPARTMENT OF FINANCE

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Re: Audit of Ulster County Installment Contracts

Dear Comptroller Gallagher:

Thank you for the opportunity to comment on your findings on the “Ulster County Installment Contracts Audit.” Constructive feedback about our department's processes is always valuable.

The Finance Department is dedicated to enhancing internal controls and we recognize the need for accuracy, completeness, and compliance for Tax Installment Contracts. While a substantial part of the audit period (January 1, 2022, through March 1, 2024) predated my tenure, I can assure you that the Finance Department is working to enhance our internal controls. As you know, we have implemented new tax software, *Total Collection Solution*, to improve tax collection processes. *Total Collection Solution* applies interest and penalties automatically, ensuring a uniform approach with all installment contracts. Effective 1/1/2025, new installment agreements will be entered into *Total Collection Solution*. This system will automatically change the status of payments due after the default date to a delinquent status, effectively defaulting the contract and creating a mechanism for use in defaulting, monitoring, and tracking defaulted contracts.

Installment agreements provide a pathway for residents to maintain ownership of their homes and properties while making payments to settle outstanding taxes. It is important to note that the County tax lien remains in place for the duration of the installment contract.

As indicated below, 297 installment agreements were entered during the audit period.

	2022	2023	Total
Installment Agreements	139	158	297

- **Recommendation 1:** The Comptroller recommends that the Commissioner of Finance implement a robust system to ensure that tax agreements are kept current and that the proper penalties and interest are applied. The Department agrees with this recommendation and will develop procedures to ensure that late fees and penalties are applied uniformly to all installment agreements and that proper documentation is maintained regarding deviations from standard operating procedures. In addition, the Department will review and update taxpayer notifications to ensure that they are aware of all late fees, penalties, and the consequences of defaulting on their installment contracts.

The Comptroller’s audit also found that the former Commissioner of Finance signed an installment agreement with an immediate family member. As noted in the Comptroller’s audit, the Ulster County Charter (Chapter 312, Article VI) designates the Commissioner of Finance as the sole authorizing

officer for installment contracts; however, the Department agrees with the Comptroller's recommendation that additional oversight is needed in instances involving immediate family members.

- **Recommendation 2:** The Comptroller recommends that the Department of Finance adjust internal procedures to use the new tax collection software. The Department has already begun to implement this recommendation and effective January 1, 2025, new tax installment agreements will be entered in *Total Collection Solution*.

In conclusion, I want to thank the Comptroller's Office for their work in completing this audit and for the information that it provides to help us continually improve our processes and strengthen our internal controls.

Sincerely,

A handwritten signature in cursive script that reads "Roseann Daw".

Roseann Daw, MBA, CPP
Commissioner of Finance