



ULSTER COUNTY OCCUPANCY TAX 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

August 2025

Dear County Executive Metzger, Legislative Chair Criswell, and Fellow Taxpayers:

Occupancy tax receipts have grown from \$2 million in 2019 to \$3.8 million in 2023 and after a doubling of the rate in 2024, to \$8.3 million. The legislation changing the tax from 2% to 4% also anticipated using 25% of all occupancy tax revenues collected for housing and 25% for transportation expenditures. Dedicating these revenues makes even more necessary good controls around this important source of funding.

The Ulster County Comptroller's Office has completed an audit of the collection of Occupancy Tax. This audit was conducted at the request of the County Executive and focused on a sample of major filers and those who claim exemptions. The audit identified \$251,756 in underpaid taxes, penalties, and interest, much of which remains uncollected. These under-collections were a result of a failure to file, inaccurate or incomplete filings, improper date of rate increase, operator discrepancies, misapplied exemption rates and undocumented exemptions.

Many of our recommendations focus on the need for a more robust and modern occupancy tax collection system within the Department of Finance. Some changes require no financial investment such as better defining "other charge" and "resort fee" within the occupancy tax law to reduce confusion over exemptions. Other recommendations such as modernization of filing systems, including online payment, automated reminders, and integrated tax tracking may require the investment of resources to bring Department of Finance better systems and integration. Finally, we recommend that the Department of Finance provide stronger oversight of exemption claims, with standardized documentation and periodic reviews as well as consistent application of penalties and interest for non-compliance.

I sincerely thank the Ulster County Department of Finance and hotel operators for their assistance.

If we can be of assistance to you, or if you have any questions concerning this report, please feel free to contact us.

Respectfully submitted,

March Gallagher
Ulster County Comptroller



ULSTER COUNTY OFFICE OF THE COMPTROLLER

Ulster County Occupancy Tax Audit

comptroller.ulstercountyny.gov

Released August 2025

Executive Summary

Why this audit is important

This audit was undertaken in response to a formal request from County Executive Jen Metzger on April 11, 2024, to “conduct a comprehensive review of the calculation of occupancy tax collections, including hotels that use §312-7(C)(4) when determining taxable rent.” This provision of the Ulster County occupancy tax law allows lodging operators to exclude a percentage of the cost of a stay from tax if meals or other services are bundled into the room rate and not separately billed. The audit aimed to assess the financial implications of this exemption, evaluate the County’s enforcement mechanisms, and review internal controls over registration and collection. Tourism is one of the largest industries in Ulster County, and the related occupancy tax generated by the County theoretically reduces the need for real property tax increases. Ensuring that collections are accurate, consistent, and administered fairly is vital to the County’s fiscal health and taxpayer equity.

Our audit period was from December 2022 through May 2024. To answer the question posed by the County Executive, we reviewed all significant occupancy tax filings for the period December 1, 2022, through November 30, 2023 (one full year of filings), and calculated the impact of the exemption on County revenues. We estimate that exemptions claimed under §312-7(C)(4) during this period reduced County tax revenues by approximately \$946,000. With the tax rate increasing from 2 to 4 percent in February 2024, assuming no exemptions and no change in filer behavior, this amount could potentially rise to \$1,892,000.

What we found

Our audit identified notable gaps in both the County’s administration of the occupancy tax program and the compliance practices of occupancy taxpayers. The occupancy tax law itself is outdated and lacks clarity on key terms, particularly those relating to bundled charges and exemptions, leading to inconsistent interpretations and underpayment of tax. One operator in the sample applied an incorrect exemption rate, while others claimed exemptions ranging from 50% to 95% without clear basis. In total, misapplications and filing errors found within the audit sample led to over \$250,000 in back taxes, which includes penalties and interest.

Potential Recovered Funds as a Result of the Audit	
Reasons	Amounts
Failure to File	\$ 185,156
Inaccurate/Incomplete Filings	39,514
Improper Rate Increase Date	21,167
Operator Discrepancies	2,742
Misapplication of Exemption Rates	2,422
Undocumented Exemptions	755
Total	\$ 251,756

Internal oversight and enforcement procedures within the Department of Finance were fragmented and underdeveloped. The County relies on disconnected systems, including a standalone database and paper files, which are not reconciled with the main financial system. As a result, filings went unreviewed, payments were unmonitored, and delinquencies persisted unnoticed for months. Nine establishments failed to file required returns, including one large taxpayer that had not filed a quarterly return or made payments for nearly a year.

Several establishments also submitted filings that could not be reconciled to accounting records, and 36% of the compliance sample had documentation errors or missing exemption certificates. One operator failed to apply the new 4% tax rate by the February 1, 2024, effective date, costing the County more than \$21,000 in under-collected tax.

Additionally, the County assigned oversight responsibilities to an employee whose civil service title did not match their job duties, without adequate compensation or reclassification, which may have contributed to turnover and the loss of institutional knowledge.

What we recommend

We recommend that the County provide administrative guidance and/or revise the Code §312-7 to reduce ambiguity and ensure that the exemption for bundled charges is applied consistently and appropriately. To accomplish this, filers who claim the exemption could be required to provide more detailed documentation regarding the services included in the cost of a stay, or the County could implement an application process to use the exemption category. Internally, the County should enhance its digital recordkeeping systems and strengthen oversight processes to improve data accuracy and accessibility. As part of these improvements, the County should consider implementing an online filing system that maintains records, applies appropriate exemption percentages, and automatically calculates quarterly filings. Finally, the County should consider adopting administrative or legislative changes to ensure the consistent application of penalties, timely enforcement of collections, and a more transparent exemption process. The Department of Finance has been provided with the audit information and findings for each lodging operator, including amounts due.

Objectives

At the request of the Ulster County Executive, this audit was initiated to conduct a comprehensive review of the calculation of occupancy tax collections, including compliance with §312-7(C)(4), a provision in the County code that allows lodging operators who provide meals and other amenities to their guests to reduce the amount subject to tax when determining taxable rent. The audit entailed review of the records of selected occupancy taxpayers as well as a comprehensive review of the County's overall occupancy tax collection process. Specifically, the audit sought to answer the following key questions:

- Are internal controls surrounding the registration, tracking, and collection of occupancy tax sufficient to ensure consistent and lawful administration?
- Are occupancy taxpayers accurately calculating and remitting occupancy tax, particularly those utilizing the exemption under §312-7(C)(4) of the County Code?

These objectives were established to determine whether the County's occupancy tax is being administered in a manner that promotes accountability, compliance, fairness, transparency, and to identify areas where process improvements or policy clarifications may be needed.

Scope

This audit reviewed Ulster County's occupancy tax program to assess both occupancy taxpayer compliance and internal administrative practices during the applicable period.

- The audit covered the period from December 1, 2022, through May 31, 2024.
- *Department Oversight Sample* (52 operators): A targeted sample of 52 occupancy tax filers was selected to assess the Department of Finance's (DOF) administration of the occupancy tax program. Selection criteria included exemption claims, all-inclusive classification, or reported annual revenue exceeding \$1 million. This sample was used to evaluate whether DOF appropriately tracked, documented, and followed up on filings and payments submitted.
- *Taxpayer Compliance Sample* (14 establishments): A separate sample of 14 occupancy tax filers was selected based on taxpayer risk indicators, including irregular filings, large exemptions and claimed exemptions under §312-7(C)(4). This sample was used to evaluate the accuracy and appropriateness of information submitted by filers, including exemption use and tax remittance.
- Fieldwork reviewing lodging operator records was conducted between October 2024 and April 2025.
- Methods included analysis of tax filings and financial records from occupancy taxpayers, and evaluation of internal controls and databases used by the DOF.
- Limitations included incomplete documentation from certain establishments and inconsistencies in County-maintained records, which required additional review.
- Despite the constraints, the scope of work allowed for a thorough assessment of key compliance risks and administrative weaknesses in the County's occupancy tax system.

Background

Ulster County first implemented its hotel and motel occupancy tax in 1991 at a rate of 2%, with the goal of generating revenue from visitors staying in hotels, motels, and other short-term lodging establishments. Much like the sales tax, this revenue is collected by businesses on behalf of the County and is not intended to be a cost borne by the operator, but rather by the guest. The funds were originally designated to support tourism promotion and local infrastructure without placing an additional tax burden on County residents.

In the years following its adoption, occupancy tax collections steadily increased, reflecting modest growth in the local tourism industry. The emergence of online short-term rental (STR) platforms like Airbnb revealed gaps in the County’s ability to collect taxes from a growing segment of the lodging market. In 2016, the Ulster County Comptroller’s Office identified this issue and began advocating for legal and administrative reforms to ensure STR operators were contributing to the tax base. Although initial efforts to manually locate and engage individual operators proved inefficient, the Comptroller successfully pushed for a Voluntary Collection Agreement (“VCA”) with Airbnb in 2020. This agreement, like those in other New York counties, resulted in the first payment from Airbnb in March 2021 and significantly expanded the County’s ability to capture revenue from STR activity.

Meanwhile, beginning in 2019, the Ulster County Legislature began considering an increase in the occupancy tax rate from 2% to 4%. The proposed rate change prompted years of debate about the need for additional revenue versus concern that a higher rate could reduce visitor demand. Neighboring counties mostly charge 5%, with some lower-population counties setting rates below that threshold.

Occupancy Tax Rates in Neighboring Counties	Tax Rate	Population
Ulster	4%	182,333
Dutchess	5%	297,150
Orange	5%	407,470
Sullivan	5%	79,920
Columbia	4%	60,470
Greene*	0%	47,062
Delaware	2%	44,410
* Greene County charges no occupancy tax at the County level, but a Town and a Village situated within the County impose an occupancy tax at the rate of 4%. According to US Census data, 40% of the County’s residents live within those municipalities.		

Ultimately, the Legislature passed Local Law No. 1 of 2024 on December 21, 2023, which increased the tax rate to 4%, effective February 1, 2024. This policy change was factored into the 2024 Executive Budget and has since driven a notable increase in collections.

One of the issues raised during the debate over an increase of the lodging tax was the provision for percentage of exemption under §312-7(C)(4), which allows operators to exclude a portion of revenue from taxation if it includes bundled charges for meals and other amenities as part of a single nightly rate. The argument for the broader exemption is that these offerings go beyond typical lodging and that those additional amenities are central to these businesses that provide significant local employment and workforce housing. The counter concern is that a

broader exemption would reduce revenues targeted for housing and public transportation purposes.

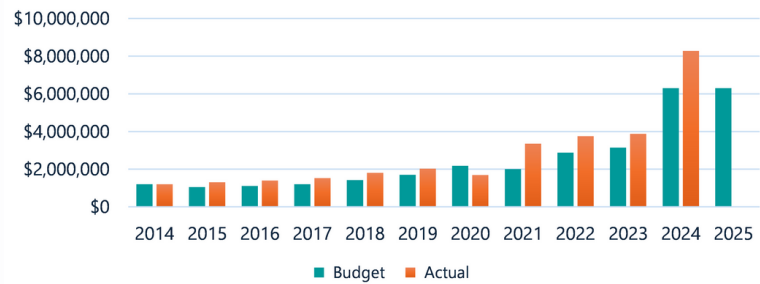
A review of December 2022 – November 2023 filings indicate §312-7(C)(4) exemptions reduced revenues by \$946,000, and, with the occupancy rate at 4% as of February 1, 2024, the loss could approach \$1.9 million if operators’ behavior remains unchanged. However, the audit identified instances where this exemption has been misapplied or insufficiently documented, raising concerns that the actual fiscal impact may vary. Strengthening oversight and requiring clearer substantiation for exempted amounts would help ensure more accurate and consistent application.

From 2014 to 2024, Ulster County’s occupancy tax revenue demonstrated steady growth, aside from a temporary drop in 2020 due to the COVID-19 pandemic. The years following the pandemic saw a robust rebound in tourism, aided by the implementation of the Airbnb VCA. Since 2021, actual collections have surpassed projections, with 2025 being the first full year of the higher tax rate even greater returns are expected.

The 2025 Budget maintains projected revenues at 2024 levels, reflecting confidence in continued tourism strength and improved tax administration.

As the County continues to refine its occupancy tax policies, the exemption for bundled services remains a key issue. Striking a balance between ensuring fair and consistent taxation and supporting a vital segment of the tourism industry will be essential for sustaining both economic growth and fiscal responsibility.

County Of Ulster Hotel Tax
Collections by Year



Findings & Recommendations

Before presenting the relevant findings, it is important to note that the audit period coincided with a time of significant transition within the Department of Finance (“DOF”). During this time, the former Commissioner and several long-serving staff members departed abruptly. Based on our interactions, it appears that the prior administration maintained a more informal and discretionary approach to enforcement and procedural documentation. While current leadership has shown a willingness to strengthen internal controls, demonstrated by their responsiveness to audit inquiries, no formal narrative or written updates on revised procedures have been provided to date, despite such requests; this transitional context may help explain certain process gaps and inconsistencies identified in the findings.

Finding 1 - Policy and Law Deficiencies

Condition: The County’s occupancy tax law is outdated and lacks clarity. Under §312-7(C) of County Law, hotel and motel operators may exclude a portion of the cost of occupancy of a room from the tax if meals or “other charge” are not separately stated and not incurred at the option of the occupant. A clear definition of “other charges”, what exactly constitutes “breakfast, lunch, dinner” as well as essential terms relevant to the industry today such as “all-inclusive” and “resort fee” are unaddressed by the law.

Cause: Despite dramatic growth in occupancy tax collections, from \$1.2 million in 2014 to \$8.3 million in 2024, the law has seen little substantive revision since its original adoption in 1991. Aside from the 2024 increase in the tax rate from 2% to 4%, no major updates have been made.

Criteria: Effective local tax laws must evolve with industry practices and administrative needs. They should include clear definitions and enforceable provisions to support proper implementation and oversight, consistent with guidance from the New York State Department of State and New York State Comptroller, which emphasizes the need for precision in local laws and clearly defined policies that support sound financial management.¹

Effect: The lack of clear definition for the term “other charge” and what constitutes a meal has created confusion among filers. We found 26 establishments claimed exemptions ranging from 50% to 95%. One establishment in our taxpayer compliance sample applied an incorrect percentage, resulting in under-collected tax. The outdated and ambiguous law has led to inconsistent interpretation and application, impeding enforcement and compliance.

Recommendations -

- **Clarify Key Terms and Strengthen Enforcement**

The Commissioner of Finance should provide administrative guidance or the Legislature should amend the occupancy tax law to clarify the definition of “other charge,” make clear the taxability of items such as resort fees and simplify or eliminate the ambiguous exemption chart. These changes would reduce misinterpretation, promote consistency in application, and support fair and effective compliance efforts.

- **Establish a Structured, Time-Bound Law Review Process**

To avoid further legislative stagnation, the Legislature should launch a structured review of the law with a clear timeline and deliverables. The process should be supported by County legal, financial, and tourism staff, and include stakeholder input. Given the tax’s increasing fiscal importance, this review should aim to align the law with modern industry practices and administrative realities.

[1] New York State Comptroller, Division of Local Government and School Accountability. Local Government Management Guide: Fiscal Oversight Responsibilities of the Governing Board. October 2004. New York State Department of State, Division of Local Government Services. Adopting Local Laws in New York State. Revised 2015.

Finding 2 - Deficiencies in Oversight, Enforcement, and System Design Contributed to Noncompliance and Revenue Loss

Condition: Our audit identified multiple structural and procedural weaknesses on both the taxpayer and County sides that undermined occupancy tax compliance. One establishment in the audit sample applied an incorrect percentage-based exemption not aligned with §312-7(C)(4) of the Occupancy Tax Law. Simultaneously, the County's limited oversight capacity and non-integrated recordkeeping allowed this and other forms of noncompliance to persist without correction.

The County currently relies on a standalone Microsoft Access database and physical files, which are not consistently reconciled with its main financial system (New World). These records lack standardization, automation, and identifying fields such as EINs. In addition, the system does not clearly differentiate between filing and payment dates and does not automatically flag late or missing returns. In one notable case, a large filer was nearly a year late without receiving any notice from the County, becoming aware only upon our audit announcement.

Tax filings are accepted without payment, and only recently has the Department of Finance begun using a separate excel spreadsheet to track outstanding balances. The absence of proactive communication and formal workflows for follow-up further weakens enforcement. In total, 9 out of 52 audited establishments failed to file at least one required return, with several entities missing multiple quarters. These delays went unaddressed for extended periods due to the lack of automated alerts, staff follow-up, or formal enforcement protocols.

Cause: The misapplication of exemptions appears to stem from confusion over how to interpret §312-7(C)(4) and the lack of clear guidance from the County. More broadly, enforcement failures are rooted in the absence of standardized outreach procedures, technology-based tracking tools, and clearly assigned responsibilities for monitoring compliance. Disjointed systems and manual tracking have limited the County's ability to prevent, detect, or respond to delinquent behavior.

Criteria: Ulster County's Occupancy Tax Law (§312-7(C)(4), §312-8(C)(1)) outlines specific exemption categories and filing deadlines. Filers must support exemption claims with documentation and submit quarterly filings by the last day of the month following the end of each quarter. Internal control guidance from the NYS Office of the State Comptroller, the U.S. Government Accountability Office, and the Government Finance Officers Association (GFOA) stresses the importance of timely communication, consistent enforcement, and the use of reliable, integrated systems for tax administration. NYS Tax Law §1145 also requires penalties and interest to be applied uniformly and documented appropriately.

Effect: The improper exemption application resulted in an assessment of **\$2,422** in back taxes and interest. Additionally, 9 out of 52 establishments failed to file required returns, including one major operator who had not filed or paid in nearly a year. These delays led to audit findings and the assessment of late penalties and interest totaling **\$185,156**.

Additionally, our audit found that penalties and interest are not applied consistently across noncompliant filers. Some delinquencies were never assessed, while others incurred late charges with no documented rationale for the discrepancy. These inconsistencies reduce deterrence and create inequities among taxpayers. The lack of a formal protocol for assessing and recording these charges also undermines the transparency and auditability of enforcement actions.

These deficiencies reduce the County's ability to ensure compliance, recover timely revenue, and maintain fair treatment across all taxpayers. They also erode public confidence and increase the risk of systemic errors and lost revenue over time.

Recommendations -

- **Standardize and Modernize Occupancy Tax Administration**

To ensure consistency, compliance, and audit readiness, the County should:

- Integrate occupancy tax tracking into the County's primary financial system (e.g., NWS) or implement a centralized vendor solution (e.g., Granicus) with a taxpayer portal.
- Automate filing reminders and late notices to improve proactive communication.

- **Strengthen Exemption Oversight and Enforcement**

Digitally track exemption claims and require supporting documentation at the time of filing.

- Monitor exemption usage and follow up on inconsistencies or omissions.
- Consider disallowing filings without payment unless coupled with automated flagging and follow-up tools.

- **Formalize Outreach and Penalty Protocols**

Establish written procedures for outreach, including timelines for notices to late or non-filing establishments.

- Apply penalties and interest consistently and maintain auditable records of all communications and enforcement actions.
- Review all outstanding balances quarterly and initiate collection actions where appropriate.

Finding 3 - Duties Beyond Civil Service Title Without Timely Reclassification or Compensation

Condition: Until recently, the employee overseeing the occupancy tax program was performing responsibilities that extended well beyond the scope of their civil service title. The position, a Senior Typist (Grade 7, approximately \$38,000 annual salary), was tasked with managing occupancy tax filings, reviewing taxpayer compliance, and making exemption determinations. These duties are more consistent with higher-graded fiscal roles. Despite this, the title and pay were not updated to reflect the nature of the work being performed. The employee has since resigned, and it is possible that the misalignment between job responsibilities and classification contributed to their departure.

Cause: Management acknowledged during the audit that the employee had taken on a broader set of responsibilities than their title formally permitted. Some of this was attributed to the individual's work style, and some to the practical needs of the department, particularly considering ongoing staffing shortages and administrative workload pressures that have persisted for well over a year. While management indicated that they had initiated a desk audit and were in the process of evaluating a reclassification, no final decision had been made as to the new title or grade. The Comptroller's Office believes the duties performed align more closely with a Junior Accountant (Grade 13) classification.

Criteria: The Ulster County CSEA Collective Bargaining Agreement states that employees performing duties of a higher classification must be compensated accordingly for the duration of such work.²

Effect: Failure to timely reclassify or adjust compensation may not only violate union contract provisions, but also contributes to low morale and raises the risk of retroactive pay claims. The situation is further compounded by staff turnover and institutional knowledge loss, which have left the department vulnerable to gaps in oversight and continuity.

Recommendations -

- **Formalize and Complete Reclassification Process**

Given that management has acknowledged the mismatch in duties and initiated a desk audit, the County should ensure that the process is formally completed in a timely manner. Any reclassification or title upgrade should be documented and implemented with appropriate changes to compensation, in alignment with civil service and union requirements.

- **Establish Ongoing Oversight for Evolving Roles**

The County should institute a process to monitor evolving job responsibilities, particularly in departments experiencing frequent turnover or workload shifts, to ensure titles and compensation remain aligned with actual duties. This could include periodic desk audits, structured supervisory reviews, or clearer escalation procedures when employees assume higher-level tasks out of operational necessity.

[2] Ulster County CSEA Collective Bargaining Agreement (2020–2024), Article 17, Section 2: "Any employee may be assigned temporarily to perform duties of a higher classification in an emergency. In such event, the employee is to be compensated at the higher rate of pay, at their current step for each hour worked in the higher classification. Such out-of-title pay shall continue for the duration of the performance of the higher classification work."

Finding 4 - Inaccurate Filings and Inadequate Documentation of Exemptions

Condition: Out of a sample of fourteen occupancy tax filers, five (36%) submitted inaccurate or incomplete occupancy tax filings. Common issues included misclassification of revenue, unclear or incorrect application of exemptions, misunderstanding of responsibilities when working with third-party platforms, and incorrectly remitting tax on complimentary stays. In addition, while most establishments were able to provide the appropriate documentation for tax-exempt stays, 20% of the sample could not produce all required exemption forms or supporting records.

Cause: These issues appear to stem from a combination of misunderstanding reporting requirements, unclear exemption guidance, and insufficient internal controls on behalf of occupancy taxpayers. Some filers relied on internal calculations or third-party systems rather than total income, misapplied exemption percentages, or failed to retain proper documentation. The lack of consistent review by the County likely contributed to these inaccuracies. Moreover, some occupancy taxpayers did not prioritize recordkeeping for exemptions, as these claims were rarely reviewed or questioned in the past.

Criteria: Ulster County's Occupancy Tax Law requires operators to accurately report all taxable transient occupancy revenue and to retain supporting documentation for any exemptions claimed, including completed and signed exemption forms.³

Effect: These filing and documentation deficiencies result in underreported taxable revenue, reduced County collections, and unequal treatment among filers. Inaccuracies or undocumented exemptions from our audit sample resulted in **\$35,809** in back taxes and interest. Without more robust oversight, these errors may continue to go undetected and undermine tax equity and enforcement.

Recommendations -

- **Continue to Improve Filing Clarity and Oversight**

The County has made strides in but should continue to revise forms and provide detailed line by line filing instructions to better explain how to report exemptions and taxable revenue and remind filers that exemption claims must be supported by signed certificates.

- **Provide Targeted Education and Support for Filers**

The DOF should implement periodic reviews of exemption claims and provide targeted outreach such as written guidance to reduce filing errors and improve compliance.

Finding 5 - Unreconciled Occupancy Taxpayer Revenue Discrepancies

Condition: In two of the 14 sampled establishments, the revenue reported on occupancy tax filings could not be reconciled to internal accounting records, such as point-of-sale summaries, booking system reports, or bank statement deposits. These discrepancies made it difficult to confirm whether all taxable income was accurately captured and reported.

Cause: Some of the discrepancies appeared to result from timing issues tied to accrual-based accounting and advance bookings, which are legitimate but require detailed recordkeeping to verify. However, in other cases, establishments were unable to provide documentation to substantiate their reported revenue.

Criteria: Ulster County's Occupancy Tax Law requires operators to report the total rent collected for all taxable occupancies. Supporting documentation, including accounting records sufficient to verify reported revenue, must be retained and made available upon request.⁴

Effect: In certain cases, we could not verify the completeness of reported revenue, increasing the risk of underpayment or error. In these instances, the audit identified discrepancies that led to the assessment of **\$2,742** in additional taxes and interest owed.

[3] Ulster County Hotel and Motel Room Occupancy Tax §312-7(D).

[4] Ulster County Hotel and Motel Room Occupancy Tax §312-8(B).

Recommendations -

- **Require Supporting Revenue Documentation**

To improve transparency and provide an audit trail, the County should update its occupancy tax filing process to require establishments to retain and, when requested, provide documentation that supports reported taxable income. This expectation should be clearly communicated and periodically enforced through spot checks or audits.

- **Develop Clear Guidelines**

The DOF should provide guidance that addresses how to report advance bookings, accrual-based revenue, and third-party platform income in a consistent manner. These guidelines should be made available to filers to ensure that different accounting methods do not result in unintentional misreporting or inconsistent treatment.

Finding 6 - Failure to Timely Implement Updated Tax Rate

Condition: One establishment did not implement the updated 4% occupancy tax rate by the February 1, 2024 effective date. Instead, the business continued to calculate and remit occupancy tax at the outdated 2% rate up until February 21, 2024, resulting in underpayment.

Cause: The error appears to have resulted from a delay in updating the establishment's internal systems or processes following the rate change. The filer asserted they tried to confirm implementation date but received communication about the update after February 1, 2024. It appears that the County did not implement a formal process to notify filers of the change. The County should have chosen to start the new rate on a date that aligned with the beginning of a sales tax quarter.

Criteria: Ulster County's Local Law No. 5 of 2023 amended the occupancy tax rate from 2% to 4%, effective January 1, 2024. However, the law was not signed by the County executive until mid-January and was not filed with the Secretary of State until January 24, 2024. As a result, the County could not implement the new rate immediately and selected an effective date of February 1, 2024. This delay was not solely within the administration's control, as the law's enforceability hinged on its filing date. All operators are required to calculate, collect, and remit tax at the updated rate as of that date.

Effect: Failure to apply the correct tax rate results in immediate under collection and underpayment of tax. In this case, the shortfall led to an audit finding and an additional **\$21,167** in tax that should have been collected and forwarded to the County.

Recommendations -

- **Implement Safeguards to Ensure Timely and Accurate Tax Rate Updates**

To ensure compliance, reduce filing errors, and improve taxpayer communication, the County should modernize its occupancy tax filing system and procedures. This could include: (1) implementing a verification process to confirm filers have applied new tax rates after any change; (2) issuing timely, multi-channel notifications for rate changes; and (3) adopt an online filing system with standardized templates, automated calculations, and tracking capabilities to support accurate, efficient, and transparent administration.

Conclusion

This audit was initiated at the request of County Executive Jen Metzger, who directed the Comptroller's Office to conduct a comprehensive review of the occupancy tax collection process, with particular attention to the use of §312-7(C)(4) exemptions. In fulfilling this directive, our office broadened the scope to assess the integrity and effectiveness of the County's overall administration, enforcement, and compliance structures.

Our findings confirm that while occupancy tax revenue has grown significantly in recent years, this growth has occurred despite outdated laws, inconsistent enforcement, and fragmented administrative tools. To sustain this progress and maintain public trust, the County must modernize its policies, improve its systems, and adopt a more structured and transparent approach to compliance and oversight.

The recommendations outlined in this report are intended to support that goal and to help ensure that Ulster County's occupancy tax program remains fair, reliable, and responsive to both operational needs and occupancy taxpayer expectations. While some establishments have submitted payment related to the amounts identified in this audit, the status of remaining recoveries is currently unclear. No formal update has been provided by the DOF regarding additional collections or enforcement actions to date. As such, full recovery of identified amounts will depend on timely and proactive enforcement by the Department.

****Management's Response**

Management's response to our recommendations will be included at the end of our report. If there are factual errors or incorrect information we will notate these items in the last paragraph of our report.

ULSTER COUNTY DEPARTMENT OF FINANCE

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Max Cordella

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Christopher R. Jaros, MBA

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Director of Real Property

To: March Gallagher, Ulster County Comptroller

From: Max Cordella, Acting Commissioner of Finance

Jamie Capuano, Deputy County Executive

Re: Audit of Occupancy Tax Administration and Compliance

Date: August 4, 2025

MANAGEMENT RESPONSE

On July 2, 2025, Comptroller Gallagher provided a draft Audit of Occupancy Tax Administration and Compliance for management review and comment.

We thank the Comptroller's office for conducting a thorough review of Occupancy Tax Collections, specifically related to tax collections, including hotels that use §312-7 (C)(4) when determining taxable rent. As you note in your report, this audit was undertaken in response to a formal request from the County Executive on April 11, 2024. Specifically, the audit reviewed all significant occupancy tax filings for the period December 1, 2022, through November 30, 2023, and calculated the impact of the exemption on County revenues.

As noted in the audit, the Comptroller's Office identified gaps in the County's administration of the occupancy tax program and in the compliance practices of occupancy taxpayers. The Comptroller's Office identified over \$250,000 in back taxes (including interest and penalties) due to the County related to taxpayers' misapplication of the exemptions outlined in §312-7 (C)(4) and filing errors within the audit sample. The Commissioner of Finance is in the process of recouping these back taxes from hotel operators.

The County agrees with the recommendations outlined in the audit, as summarized below.

Clarify Key Terms and Strengthen Enforcement

The audit examined provisions of the County's occupancy tax law including compliance and enforcement components of the law. The Comptroller also noted that provisions of the law lack clarity, contributing to confusion and the misapplication of tax exemptions and resulting in reduced revenue from hotel/motel operators. The Comptroller's office recommends that the Commissioner of Finance develop administrative guidance regarding the application of exemptions. This guidance will clarify the appropriate application of the exemptions and clarify the definition of "other charge" and the taxability of these items, such as hotel fees.

The audit also recommends that the County review the occupancy tax law regularly to ensure alignment with the modern industry practices. The County agrees with this recommendation and will begin the periodic review process on a bi-

annual basis. The findings in the report help to identify areas of improvement and to inform policymakers as they consider further changes to the occupancy tax law.

Standardize and Modernize Occupancy Tax Administration

The Comptroller's Office reviewed the County's occupancy tax filing process and found that the County should modernize and standardize the occupancy tax collection process. The County agrees with this recommendation.

In fiscal year 2024, a dedicated staff member improved communication with filers, applied penalties and interest due, and identified underpayments, the direct result of which was a significant increase in revenue.

Strengthen Exemption Oversight and Enforcement

The Comptroller's Office recommends the Department of Finance strengthen its oversight of hotel operators claiming exemptions under the law. As outlined in the audit, the Office recommends that the Department of Finance track exemption claims and require additional supporting documentation at the time of filing. The County agrees with this recommendation, and since the audit period the department has required supporting documentation for exemptions to be filed with occupancy tax returns.

Formalize Outreach and Penalty Protocols

The audit recommends that the County establish written procedures for outreach, including timelines for notices to late or non-filing establishments. The County agrees with this recommendation.

In 2025 New York State Real Property and Tax Laws were amended to require short-term rental (STR) registration at the county level and shift tax responsibility for STR bookings to booking platforms (e.g., AirB&B, VRBO) instead of individual operators. While the audit was focused on traditional hotels and motels, the department plans on using this opportunity to modernize and standardize its occupancy tax collection procedure for all operators.

Since the original occupancy tax law was adopted in 1991, the workload has increased significantly, primarily due to the growth of the STR market. This has resulted in thousands of operators authorized to collect and remit tax to Ulster County, and a challenge to monitor compliance. Enforcement and compliance monitoring for such a large program remain challenging. When current leadership assumed management of the department, no established enforcement process or dedicated staff existed, and since 2023 management has taken steps to monitor and communicate to delinquent filers. Amid other departmental needs, establishing such processes has progressed slowly but consequentially.

Considering the facts and the challenges of implementing change more swiftly, the findings and recommendations of the Comptroller's audit are generally acknowledged and welcomed by the department.

Formalize and Complete Reclassification Process and Establish Ongoing Oversight for Evolving Roles

The audit found that an employee within the Department of Finance was performing duties that fall outside the scope of their job description. Specifically, the audit found that the employee was managing occupancy tax filings, reviewing taxpayer compliance, and making exemption determinations.

The department takes very seriously the claim that an employee was tasked with responsibilities above their title. As management expressed to the Comptroller's office previously, we disagree with this characterization of the situation but identified ongoing challenges at the time and understand why this finding was included. The organizational structure relied heavily on the Deputy Commissioner to be the decision-maker on changes to the program, the enforcement process, and other matters where procedures were not well defined, therefore leaving the Senior Typist to perform the well-defined clerical work, routine correspondence, and record review appropriate for that title. We acknowledge that some tasks

appeared out of title. Management now plans to adopt an organizational structure involving higher-grade positions to align the roles and responsibilities to meet the needs of the department.

Continue to Improve Filing Clarity, Recordkeeping and Compliance Oversight. Provide Targeted Education and Support for Filers.

The audit found that out of a sample of fourteen taxpayers, five (36%) submitted inaccurate or incomplete occupancy tax filings. The audit identified several common issues, such as misclassification of revenue, unclear or incorrect application of exemptions, misunderstanding of responsibilities with third-party platforms (like Expedia), and remitting tax on complimentary stays.

The Comptroller recommends that the County continues to improve filing clarity and oversight by providing detailed line-by-line filing instructions and reminding filers that exemption claims must be supported with signed certificates. In addition, the Comptroller recommends that the County provide guidance that addresses how to report advance bookings, accrual-based revenue and third-party platform income in a consistent manner. The County agrees with these recommendations.

The Comptroller recommends that the Department of Finance should implement periodic reviews of exemption claims and provide targeted outreach to reduce filing errors. The County agrees with this recommendation.

In addition, the Comptroller recommends that the Department of Finance should update its occupancy tax filing process to require hotel operators to retain, and when requested, provide documentation that supports reported taxable income. The County agrees with this recommendation and since the audit period, the department has been requiring supporting documentation for taxable income to be submitted with tax filings.

Implement Safeguards to Ensure Timely and Accurate Tax Rate Updates

The audit found that one establishment did not implement the updated 4% occupancy tax rate by February 1, 2024. Instead, the business continued to calculate and remit occupancy tax at the outdated 2% rate up until February 21, 2024, resulting in an underpayment of occupancy tax of \$21,167.

The Comptroller's Office recommends that the Department of Finance implement a verification process to confirm filers have applied the appropriate tax rates; issue timely, multi-channel notifications for rates changes; and adopt an online filing system.

The County agrees with these recommendations. With the recent amendments to the NYS Real Property and Tax Laws governing STRs, the burden of administering occupancy tax should significantly decrease due to "platform responsibility" for STR tax payments, which reduces day-to-day communication with individual STR operators filing and paying taxes – currently a major demand on staff time – and allows staff to focus on enforcing and monitoring hotel and motel tax filings, which generally contribute more revenue per property.