

AUDIT REPORT – PROPERTY TAX
EXEMPTIONS

*Final Report –
August 14,
2017 from the
New Castle
County
Auditor's Office*

Audit Report – Property Tax Exemptions

To: Brian Maxwell, Chief Financial Officer
Carol Dulin, County Attorney
Denzil Hardman, Accounting & Fiscal Officer, Office of Property Assessment
Doug Sensabaugh, Property Assessment Manager, Office of Property Assessment

Audit Conclusions and Reportable Items

Overall, we believe that adequate internal controls exist in all material respects over the granting, maintenance, and removal of property tax exemptions.

We have two Areas of Particular Concern which we believe warrant management’s immediate attention. These are:

- **Evaluate status of comment from 2010 audit report regarding approaching the State Legislature about amending State Code to allow New Castle County (NCC) to appeal decisions of the Board of Assessment Review. See page 16.**
- **Evaluate parcels getting tax exemptions where the owners of such parcels are delinquent in the payment of County property taxes, School taxes, and/or sewer service charges. See page 17.**

Other opportunities for improvement are included in the “Opportunities for Improvement” section of this report beginning on page 21. We also have a General Comment on page 12.

Overview – Tax Exemptions

Title 9, Chapter 81, Subchapter I, §8101 of the Delaware Code states “All real property situated in this State shall be liable to taxation and assessment for public purposes by the county in

which the property is located ...” Other sections of the State Code deal with various exemptions from the property tax. For example,

- Title 9, Chapter 81, Subchapter II deals with the school tax exemption for persons 65 years of age or older. NCC administers the school tax exemption program for the State (as well as the Senior Tax Credit program for the State). This subchapter makes it explicitly clear that it does not apply to the exemption from County property taxes, i.e., “Nothing in this subchapter shall be construed to apply to property taxes levied within and by a municipality.”
- Title 9, Chapter 81, Subchapter I, §8105 states “Property belonging to this State, or the United States, or any county of this State, or owned by any municipality of this State and held for public use, or any church or religious society, and not held by way of investment, or any college or school and used for educational or school purposes, except as otherwise provided, shall not be liable to taxation and assessment for public purposes by any county or other political subdivision of this State ... Corporations created for charitable purposes and not held by way of investment ... shall not be liable to taxation and assessment ...” These are the exemptions the Office of Property Assessment labels as “General Exemptions.” They include the “automatic” ones such as properties held by the Federal and State Governments and the ones in which the owner of the parcel has to apply for the exemption (such as religious and charitable organizations).
- Title 9, Chapter 81, Subchapter I, §8106 states “No real property owned and used by the organizations listed below or for the purposes stated below, except that which is held by way of investment, shall be liable to taxation and assessment ...” The Section then lists various organizations.

Chapter 14, Article 6 of the NCC Code deals with exemptions from County property taxes. This article provides further clarification of the State Code and also establishes certain additional exemptions not covered in the State Code (e.g., Disability exemptions).

NCC forgoes a sizeable portion of property tax revenue by granting property tax exemptions, although obviously the granting of such benefits has strong societal impacts. The Fiscal Year 2018 budget book “New Castle County Revenue Summary with Contingencies & Debt Service” contains a section on “Tax Loss from Exempt Property.” This section, grouped by exempt type, shows a loss to the assessment roll of over \$5 billion and an estimated loss of tax revenue of almost \$26 million.

The Office of Property Assessment, part of the Office of Finance, requires an application to be completed for most property tax exemptions. These applications are for:

- Senior tax exemption.
- Senior property tax credit.
- Disability tax exemption.
- City of Wilmington tax incentive exemption.
- General tax exemption: used for most exemptions other than the Senior, Disability, City of Wilmington tax incentive, and Farmland exemptions. Please note that there are some General exemption types which do not require the completion of an application because the properties automatically receive a property tax exemption per State and/or County Code (such as properties owned by the Federal Government and the State of Delaware).
- Farmland tax exemption.

The Office of Property Assessment reviews and approves the applications for the Senior, Disability, City of Wilmington tax incentive, and Farmland exemptions. The Office of Law reviews and approves the applications for the General exemptions. If an applicant disagrees with the denial of an application for a tax exemption, he/she can appeal the decision to the NCC Board of Assessment Review.

Audit Objectives, Methodology, and Scope

This audit was a combination of:

- A “follow-up audit” on the status of our recommendations, and management’s responses, from our November 22, 2010 report on “Property Tax Exemptions”, and
- A “performance audit” of the County’s processes for granting, maintaining, and removing tax exemptions.

Delaware Code, Title 9, Chapter 14, §1405 states “The County Auditor shall follow up on audit recommendations ... to determine whether corrective measures have been implemented ...” Therefore the primary objective of the follow-up portion of this audit was to determine that either (1) corrective action was taken on comments and recommendations from the November 2010 audit report or (2) management of the Office of Property Assessment and the Office of Law have assumed the risk of not taking corrective action. Specifically, we:

- Met with management to determine the current status of each comment and recommendation.
- Where deemed applicable, performed audit testing.

Performance audits, as defined by Generally Accepted Governmental Auditing Standards, are audits that provide findings and conclusions based on an evaluation of sufficient, appropriate evidence against criteria. The overall performance audit objectives for this audit were:

- **Internal Control:** An assessment of the County’s system of internal control for tax exemptions that is designed to provide reasonable assurance of achieving efficient and effective operations, reliable financial and performance reporting, and compliance with applicable laws and regulations.
- **Compliance:** An assessment of the County’s compliance with criteria, related to tax exemptions, established by provisions of laws, formal policies and procedures, and other requirements.
- **Program effectiveness, economy, and efficiency:** An assessment of the extent to which the County is achieving its goals and objectives related to the tax exemption processes.

Apart from following up on recommendations from the 2010 audit, our performance audit, and its scope and methodology, encompassed the following:

1. Evaluation of the adequacy of the Office of Property Assessment's required documentation policies for Senior and Disability exemption applications. Our sample included 25 Senior and 23 Disability applications from 2015.
2. Evaluation of policies and procedures in the Office of Property Assessment and the Office of Law for processing General exemption applications including the execution of the "use test" and determination of whether a property is "held by way of investment." Our sample included 28 parcels (of 93 parcels for which exemption applications were processed by the Office of Law in 2014 and 2015).
3. Evaluation of whether current policies and procedures guiding the processing of Senior, Disability and General exemptions are in accordance with State and County Code requirements.
4. Evaluation of whether the processing of Senior, Disability and General exemptions has been in accordance with the Office of Property Assessment's and Office of Law's policies and procedures. (Note: Sample sizes for these are addressed in Objectives 1 and 2.)
5. Evaluation of "use" of parcels by certain tax exempt organizations to determine if such parcels are still being used for the exempt purpose and continue to not be "held by way of investment." We looked at State of Delaware parcels with a building assessment exceeding \$1 million (39 parcels), State of Delaware parcels granted an exemption on or prior to August 23, 1999 and with a building assessment between \$200,000 and \$1 million (27 parcels), religious parcels granted an exemption on or prior to August 23, 1999 (156 reviewed, 20 visited) and volunteer fire companies (63 parcels).
6. Evaluation of the Office of Property Assessment's policies and procedures for updating the tax exemption status of a parcel due to either death of the owner or change in ownership. We analyzed all the NCC property sales data for 2015 for updated tax exemption status of parcels.
7. Analysis of property tax, school tax, and sewer charge delinquencies among exempt parcels.

8. Duplicates analysis of exempt parcels to identify potential cases of the same owner getting Senior or Disability exemptions on multiple parcels.
9. Review of (a) the Office of Finance's reporting on exemptions in the County's Comprehensive Annual Financial Report (CAFR) and Comprehensive Annual Budget Summary (CABS) and (b) the Office of Property Assessment's annual and quarterly reporting to the School Districts.
10. Comparison of NCC's property tax exemption programs with those of other benchmark counties per the 2011 PFM report (Sussex County, DE; Kent County, DE; Boulder County, CO; Johnson County, KS; Lee County, FL; Seminole County, FL; Thurston County, WA).

Audit testing during this audit involved General exemptions, Senior tax exemptions and Disability tax exemptions.

In general, our testing involves audit sampling. We evaluate the results of the tests and use professional judgment, based on the number of exceptions and/or the materiality of such exceptions, whether to include exceptions in the audit report. In some cases, we perform additional testing to help us obtain additional audit evidence in making such evaluation and determination.

If our audit work reveals an item which we believe is significant in the context of one or more audit objectives, we include this in an "Areas of Particular Concern" section of the audit report. An Area of Particular Concern is an item (such as a deficiency in internal control or noncompliance with a particular law) which we believe has or could have a significant adverse impact upon the County's ability to accomplish a major objective and, therefore, warrants management's immediate attention. All other reportable items are included in an "Opportunities for Improvement" section of the audit report.

Because the scope of an audit does not allow us to examine every single function and transaction performed by an area, an audit would not necessarily disclose all matters that might be reportable items.

Generally Accepted Government Auditing Standards

Except as discussed in the following paragraph, we conducted our audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) promulgated by the United States General Accounting Office. These 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We have not met the requirement of Section 3.96 of GAGAS that requires an audit organization performing audits in accordance with GAGAS to have an external review every three years. In Fiscal Year 2018, we plan to have the Association of Local Government Auditors perform a peer review of the County Auditor's Office.

Views of Responsible Officials

Management's responses are included after each of the report's recommendations.

Appreciation of Cooperation

We sincerely appreciate the cooperation of the Office of Property Assessment and the Office of Law in their willingness to work together with us in determining constructive improvements to the processing of tax exemptions.

Cc:

Matthew Meyer, County Executive

Kathleen Jennings, Chief Administrative Officer

Rashad Taylor, Deputy Chief Administrative Officer

Aundrea Almond, Chief of Staff

Karen Sullivan, County Solicitor

Adam Singer, Assistant County Attorney

Brian Boyle, Policy Director

Jason Miller, Communications Director

Betsy Gardner, Clerk of County Council

Rafat Kille, Property Assessment Services Administrator

New Castle County Council Members

New Castle County Audit Committee Members

General Comments - Recognition

We would like to give recognition to the Office of Property Assessment and the Office of Law for a few items:

Removal of Exemptions

The Office of Property Assessment (the “Office”) has a policy of removing property tax exemptions (if justified) on parcels that undergo a change in ownership, either due to a change in deed or due to the passing away of the owner. The Office uses reports from the Recorder of Deeds and the Register of Wills Offices for this purpose.

Table 1 gives the number of exemptions removed and the resulting increase in the amount of New Castle County (NCC) taxable assessment for calendar years 2014, 2015 and 2016.

Exemption Removals	Total Exemptions Removed in 2014	Increase in NCC Taxable Assessment (\$), 2014	Total Exemptions Removed in 2015	Increase in NCC Taxable Assessment (\$), 2015	Total Exemptions Removed in 2016*	Increase in NCC Taxable Assessment (\$), 2016*
Remove county & school senior ex	685	26,301,800	736	29,023,475	860	32,357,242
Remove county only senior ex	468	19,899,133	470	19,405,367	554	23,329,980
Remove disability ex	103	3,149,150	104	3,387,310	110	3,394,602
Remove general ex	74	8,748,028	116	74,319,500	77	27,708,800
Remove landfill ex	8	33,060	14	78,640	12	71,180
Grand Total	1338	58,131,171	1440	126,214,292	1613	86,861,804

* As of 11/15/2016

As a part of our audit testing, we obtained a list of the parcel sales that took place in NCC in 2015. We matched this list with the exemptions database provided to us by the Office. For all the parcels that had a deed change in 2015, we found that any exemptions on these parcels were for current owners. Hence, it appears that the Office successfully updated all exemptions that were no longer valid as a result of 2015 property sales.

By proactively removing exemptions on parcels that no longer qualify, the Office is providing a valuable service to the residents of NCC by keeping the assessment rolls current and ensuring parcels no longer eligible for an exemption are now paying property taxes.

Electronic Storage

We commend the Office of Property Assessment on its plan to move all tax exemption application packages (i.e., application and supporting documentation) to electronic storage by the end of 2017. This will help ensure better document management by increasing security and facilitating retrieval of documentation. This is also in line with the County-wide move to store documents electronically [i.e., capital project 100435 (ended 2009) and ongoing capital project 109918].

In our sample of General exemption applications from 2015, initially three application packages were missing. A search for the missing application packages resulted in one being located and another one only partially located. While these two packages had both been denied an exemption, it is still a prudent practice for the Office of Property Assessment to electronically store all its applications for future reference.

The Office of Technology has confirmed that in the future there will be the ability to scan the tax exemption forms on the County's Xtender Web Access software. There will be no additional cost for adding on these scans.

Increased Emphasis on Land Use Test

The Office of Property Assessment instituted a new Tracking Sheet for General exemption applications starting in late 2016. The sheet includes more space for Assessors to record their observations when they visit the parcel to perform the Land Use test (i.e., the test to determine if the parcel is being used for the stated purpose). Since the Office of Law takes the Land Use

test into account when deciding whether to grant the General exemption, it is important for the Assessor to record as much information from the Assessor's Land Use test as possible. Also, in our review of General exemption applications we found that some Assessors did not record any observations at all from the Land Use test. By incorporating the new Tracking Sheet, management has reiterated to the Assessors the importance of recording all information from the Land Use test.

Office of Law Review

Our review of a sample of General exemption applications from 2014 and 2015 revealed the complex and varied nature of some General exemption applications. The attorneys in the Office of Law appear to do a thorough analysis and deliberation of all the information available to make their determination on whether to grant the exemption. For example, one of the determination memoranda from the Office of Law noted that, in its financial statement¹, the applicant had indicated future plans to repair and lease the building on the parcel to defray site costs and provide an additional revenue stream. In this case, the memorandum directed the organization to inform the County of any such lease in the future for re-evaluation of the Office of Law's exemption decision. In certain other cases, the attorneys reached out to applicants for more information and/or clarifications (e.g., proof for substantiating rental claims).

Our sample of parcels included 21 exemption approval decisions, three conditional exemption approval decisions, one partial exemption approval decision and three exemption denials. We would like to note that, unlike the 2010 audit, we did not find any legal memoranda without the attorney's reasoning for how he/she had arrived at a decision to grant/deny an exemption.

¹ The 2010 audit had recommended that the Office of Law review an organization's annual Form 990 for determining whether or not a property "is held by way of investment." Though the Form 990 is not a required document for General exemption applications, five of 28 parcels in our sample had the Form 990 in the application file. We believe it would be a good idea for the Office of Law to always review the organization's Form 990 (which can be obtained on Guidestar.org).

General Comment – PILOTS (Payments In Lieu of Taxes)

Comment

The Delaware Constitution, Article VIII, Section 1 provides:

“... County Councils of New Castle and Sussex Counties and the Levy Court of Kent County are hereby authorized to exempt from county taxation such property in their respective counties as in their opinion will best promote the public welfare. The county property tax exemption power created by this section shall be exclusive as to such property as is located within the respective counties. With respect to real property located within the boundaries of any incorporated municipality, the authority to exempt such property from municipal property tax shall be exercised by the respective incorporated municipality, when in the opinion of said municipality it will best promote the public welfare ...”

Delaware Code, in Title 9, and New Castle County (NCC) Code, in Chapter 14, provide for various exemptions from NCC property taxes. NCC forgoes a sizeable portion of property tax revenue by granting property tax exemptions, although obviously the granting of such benefits has strong societal impacts. The following information is contained in NCC published financial reports:

- Fiscal Year 2017 Comprehensive Annual Budget Summary (CABS): “Assessed real property values partially or totally exempt from real property tax total \$5.2 billion or 21.5% of the gross \$23.9 billion property assessments. The largest component of exempt property is the general exemptions category which is \$4.2 billion, or 82% of total exemptions granted of assessed property.”
- The Fiscal Year 2018 budget book “New Castle County Revenue Summary with Contingencies & Debt Service” contains a section on “Tax Loss from Exempt Property.” This section, grouped by exempt type, shows a loss to the assessment roll of over \$5 billion and an estimated loss of tax revenue of almost \$26 million.

The State of Delaware's Fiscal Year 2017 Budget Bill (Senate Bill 285) established the State/County Finance and Revenue Committee to "suggest efficiencies, improvements and cost savings to the State, including but not limited to, the Realty Transfer Tax, the Register of Wills, and the operations and training associated with the County Paramedics Program." Meetings of the Task Force have included discussion on topics such as: (1) Programs which used to be handled by the Counties which are now being handled by the State, and vice versa, (2) Benchmarking of State/County revenue sources against other States, and (3) Presentation of each County's current operating budget.

At the March 2, 2017 Finance and Revenue Committee meeting, PFM gave a presentation which included slides on "Alternative Ways to Tax Non-Profits." The slides referenced a 2011 study, "The Property Tax Exemption for Non Profits and Revenue Implications for Cities", performed by the Lincoln Institute for Land Policy.² Such study indicated:

- Properties owned by charitable nonprofits and used for a tax-exempt purpose are exempt from property taxes under State law in all 50 states even though municipalities still need to pay to provide these nonprofits with public services.
- Many cities whose economies used to be dominated by manufacturing have seen relatively mobile for-profit businesses leave their cities, while colleges, universities, and medical centers (that are tied to their location due to fixed capital investments and other factors) remain in place. (Please note that not all education and healthcare businesses are nonprofits.)
- Payments in Lieu of Taxes (PILOTs) are payments made voluntarily by tax-exempt organizations as a substitute for property taxes. These payments typically result from negotiations between local government officials and individual organizations, but the exact arrangements vary widely. PILOTs are sometimes formalized as long-term contracts, sometimes as routine annual payments without formal contracts, and sometimes they consist of irregular one-time payments.

² Although the study relates to cities, it still has material which relates to other local governments.

- PILOTS are most frequently made by hospitals, colleges, and universities, but are also made by nonprofit retirement homes, low-income housing facilities, cultural institutions, fitness centers, and churches.

In 2011, New Castle County engaged PFM to perform a “Study of Tax Assessment Processes and Operations.” This study, issued on December 16, 2011, included a recommendation to “Establish a working group to gauge viability and value of pursuing Payment in Lieu of Taxes (PILOTS).” We do not believe the County ever established such a working group.

New Castle County Code Chapter 14, Article 6, Section 14.06.1003 states “Nothing in this article shall restrict the County from entering into an agreement with an exempt property owner for payment of service charges in lieu of taxes.”

We believe there may be parcels which present an opportunity for NCC to request a PILOT. For example, we are aware of a parcel receiving a “Federal Government” property tax exemption that is being used by a for-profit concrete tie company. Also, certain State of Delaware parcels are used as wedding venues, golfing facilities, etc. and might be candidates for a PILOT.

Recommendation – Executive Office

We recommend that Executive Office management consider following PFM’s recommendation, from its 2011 Study, about establishing a working group to gauge the viability and value of pursuing a PILOTS program. Perhaps such working group could be formed by the State/County Finance and Revenue Committee.

Management’s Response – Executive Office

It is estimated that for fiscal year 2018, New Castle County will forgo nearly \$26 million in revenue based on over \$5 billion in exempt property values. While county expenses continue to dramatically outpace revenues, we do not believe a PILOT program would be feasible or

provide a significant return on investment. The 2011 PFM study notes that the “implementation and collection of PILOTs can be both confusing and challenging” and recommends a ‘carrot and stick’ method to encourage non-profits to make voluntary payments. The Administration believes that pursuing such a program would put the county in the business of picking and choosing which non-profits should make payments and could create inequity and a lack of uniformity with respect to taxation.

View of County Auditor’s Office

Although we believe there are certain properties (such as the ones indicated in our report comment) that warrant the County requesting a PILOT, we respect management’s decision not to pursue a PILOT program.

AREAS OF PARTICULAR CONCERN

#1: Take steps to revive Delaware 146th General Assembly's Senate Bill 82.

Comment

Our previous audit had reported that, based upon a judicial decision in a 1995 court case, the County does not have the right to appeal decisions of the Board of Assessment Review. The audit had recommended that the County Executive Office consider approaching the State Legislature about amending the State Code to provide the County with the authority to appeal a decision of the Board of Assessment Review.

In May 2011, Delaware Senate Bill 82 was introduced to amend §8312 of the Delaware Code to authorize "New Castle County, any municipality or any school district to appeal from decisions of the board of assessment review to the Superior Court in and for New Castle County from any decision changing the assessment of a non-residential property more than \$500,000.00." Having been introduced close to the end of the Delaware General Assembly session, the bill apparently stalled and we are not aware of any subsequent steps taken to revive it.³

Recommendation – Executive Office

We recommend that Executive Office management consider approaching the State Legislature about reviving Senate Bill 82, especially in light of the current strain on County revenues. This would ensure that the County, if deemed necessary, is able to appeal decisions by the Board of Assessment Review in cases having a substantial impact upon the County's tax base.

³ SB 82 was introduced on May 31, 2011 and was passed by the State Senate on June 16, 2011. One of the House sponsors proposed a minor amendment and the bill and amendment were assigned to the House Administration Committee on June 23, 2011. The legislative history ends there.

Management’s Response – Executive Office

Based upon a 1995 judicial decision, New Castle County does not have the right to appeal decisions of the Board of Assessment Review. Senate Bill 82 was introduced in 2011 and provided that the county, any municipality, or school district could appeal decisions of the Board to the Superior Court “from any decision changing the assessment of a non-residential property more than \$500,000.” Given the County’s current financial condition, the Administration will review the option of including a revival of SB 82 in the County’s legislative agenda for next year.

#2: Consider working with the Office of Law and County Council to formulate a County Ordinance requiring all tax exemption applicants to be current in their payment of County taxes and sewer service charges, and to remain current in order to continue receiving the exemption.

Comment

Per New Castle County Code, Chapter 14, §14.06.302B (Senior exemptions) and §14.06.303B (Disability exemptions),

“.. No application under this Section shall be approved unless, at the time of approval thereof, all taxes and sewer service charges then due to or collectible by New Castle County have been paid in full, or the applicant is actively enrolled and making monthly payments of any tax or sewer charges due to or collectible by New Castle County as determined by the Office of Finance at the time of the application.”

Therefore, before approving a Senior or Disability exemption for delinquent parcels, the Office of Property Assessment checks with the Treasury area to ascertain if the owner of a delinquent parcel is enrolled in a payment plan. However, if a parcel having a Senior or Disability tax

exemption becomes delinquent after the exemption is granted, there is apparently nothing in either State or County Codes giving the County the authority to remove the exemption.

Using Treasury’s Descending Balance Enhanced report (run on February 3rd 2017 and February 6th 2017), we performed an analysis to see how many exempt parcels owed County/School property taxes and/or sewer service charges. The number and dollar amount of delinquent accounts, by County taxes, School taxes, and Sewer Service Charges owed, is given in Table 2. Please note that we have included accounts having exemptions other than the Senior and Disability ones.

Table 2: Delinquent Accounts that have property tax exemptions

Type of Exemption	County Taxes		School Taxes		Sewer Service Charges	
	Number of Delinquent Accounts	Delinquent Amount (\$)	Number of Delinquent Accounts	Delinquent Amount (\$)	Number of Delinquent Accounts	Delinquent Amount (\$)
BRANDYWINE SCH DIST					1	348
CHARITABLE AND BENEVOLENT	2	18,474	3	71,183	2	995
CITY OF WILMINGTON	8	3,543	8	13,404		
CIVIC ASSNS.	2	560			2	6,454
COUNTY TAX INCENTIVE	1	26,833	1	187,767	1	3,025
DELAWARE RIVER & BAY AUTHORITY					1	12,455
DIS A-COUNTY & SCHOOL-32K MAX	34	34,687	70	158,773	25	21,649
DIS A-COUNTY & SCHOOL-40K MAX	16	11,435	44	71,636	10	3,477
DIS A-COUNTY ONLY-32K MAX	11	7,521	26	80,452	12	9,880
DIS A-COUNTY ONLY-40K MAX			7	5,207		
DIS B-COUNTY & SCHOOL-74K MAX					3	1,898
DIS B-COUNTY ONLY-74K MAX	1	376	1	8,703	1	2,781
DISABILITY(VETERANS) EXEMPTION	3	3,581	4	16,334	1	686
EDUCATIONAL					1	307
LANDFILL EXEMPTION	37	41,910	50	73,291	46	39,426
LOCAL GOVT	2	877	3	7,041	1	264
MISC:SPCA, DE WILDLANDS,ETC					1	10,378
NCC AIRPORT LEASED PARCEL					3	2,302
NEW CASTLE COUNTY	1	353	2	1,410	7	4,509
PARKLAND OR RECREATIONAL			1	833	1	2,640
PUBLIC OPEN SPACE	27	60,242	27	110,061		
RELIGIOUS	5	11,934	8	28,292	11	16,721
SENIOR-COUNTY & SCHOOL-32K MAX	30	32,408	77	146,084	20	14,729
SENIOR-COUNTY & SCHOOL-50K MAX	41	32,116	167	199,778	12	5,067
SENIOR-COUNTY ONLY--32K MAX	21	16,138	98	173,982	16	10,786
SENIOR-COUNTY ONLY-50K MAX	14	9,343	109	244,091	1	315
STATE OF DELAWARE			1	412	3	12,024
UNIV OF DEL			2	2,647	1	490
VETERANS AND FRATERNAL					1	286
VOLUNTEER FIRE COS	1	400				
WCHC/WHOC/WHDC/WHPC/WUDAG	1	252	1	2,114		
WILMINGTON TAX INCENTIVE	1	2,827	2	36,678		
Total	259	315,811	712	1,640,171	184	183,889

* Accounts with delinquent amounts >=\$250

Table 2 lists all tax exemption accounts (except those receiving Farmland exemptions) with delinquent amounts greater than \$250; therefore, there are other delinquent accounts having exemptions that are not listed in this table. Please note that some of the General exemption delinquent accounts have legacy tax balances from before the exemption was granted. (If permissible by Code, such accounts could have these taxes abated by the New Castle County Council.) Also, as mentioned in our 2017 Collections Audit Report, some of these delinquent accounts have very old dates and thus there is a need for Treasury management to evaluate these accounts.

As the Table shows, the total delinquent amounts owed by tax exempt parcels exceed \$2 million, with approximately \$316,000 owed in County taxes and \$183,000 in sewer charges. Over \$145,000 of the amount owed in County taxes and \$71,000 of the amount owed in sewer charges is by parcels receiving Senior or Disability tax exemptions.

Recommendation – Executive Office

We recommend that management consider working with the Office of Law and County Council to formulate a County ordinance requiring owners of parcels having Senior and/or Disability exemptions to stay current in their County taxes and sewer service charges in order to continue receiving the exemption. Note: Management may want to incorporate a dollar threshold for the delinquency before the owner loses the tax exemption. Management should also consider allowing the property owner to maintain the exemption as long as the owner enters into a payment agreement and is current on such agreement.

Management should first have the Office of Law ensure such ordinance would not violate any provision of State Code.

Note: In our closing conference on this audit report, Office of Finance management informed us that, due to system limitations (mainly that the exemption is on the system as a reduction in

assessed value, not as a code), it would be difficult to monitor whether accounts having Senior and/or Disability exemptions have become delinquent. Therefore, management believes the cost of implementing this control would outweigh the benefits to be derived. Management also believes that County Council would not want to change County Code to allow Finance to remove Senior and Disability tax exemptions on delinquent parcels.

Management's Response – Executive Office

The Administration believes further study should be conducted to determine our legal limitations related to this recommendation. The Administration supports creating greater uniformity and equity related to granting tax exemptions and supports the concept of requiring general exemptions to follow similar legal requirements as Senior and Disability exemptions. We are committed to giving this recommendation further review. The Administration's target date is by March 2018.

OPPORTUNITIES FOR IMPROVEMENT

#3: Assign responsibility for tracking and following up on conditional approvals of property tax exemptions.

Comment

Our testing of a sample of General exemption applications (93 total parcels) from 2014 and 2015 included two applications that were given exemptions only if the owners continued to meet certain conditions. Our research revealed that both properties no longer met the conditions, yet continued to receive the exemption.

- For one of the applications, the Office of Law attorney noted that the organization had indicated, in its financial statement, plans to repair and lease the building on the property to defray site costs and provide an additional revenue stream. The attorney's decision letter, therefore, instructed the parcel owner to inform the County of any such lease for re-evaluation of the exemption decision. We did an online search on the property and found a listing indicating that two spaces on the property were available for rent. We also found that a business, other than the organization owning the property, was listed for that property address.
- In another case, the applicant (owner of two parcels) was in the process of disputing the revocation of its school license by the Delaware Department of Education. The attorney had noted that the exemption would cease to be effective if the School's challenge to the Department of Education's decision was unsuccessful. When we looked up the School online, we found that the School had lost its charter and there were no educational activities on the property.

In these cases, the exemptions should have been re-evaluated to determine if they were still legitimate. The Office of Property Assessment has apparently not established a process to

follow up on properties that have been granted an exemption dependent upon the resolution of a future condition.

Although we don't believe there are a great number of parcels with exemptions having conditions attached, we do believe a process needs to be established to address these.

Recommendation – Office of Property Assessment

We recommend that the Office of Property Assessment design a process to monitor conditional exemption approvals (e.g., perform Land Use tests at regular intervals).

Management's Response – Office of Property Assessment

Assessment agrees that this process should be put into place. Assessment will keep a list of parcels with such decisions and review them every year prior to the annual tax billing to make sure that the customer still meets the condition. Any parcel that Assessment believes does not meet the condition will be discussed with Law to formulate a course of action. Assessment will begin keeping a list of such parcels in August, 2017 and review the parcels on the list each year prior to the July annual tax billing beginning in 2018.

#4: Ensure that exemptions granted by the Office of Property Assessment comply with the current Delaware and New Castle County Codes.

Comment

The Office of Property Assessment administers property tax exemptions based on the Delaware and New Castle County (NCC) Codes. This requires the Office's policies and procedures relating to exemptions to reflect the current State and County Codes. Moreover, since parts of these

Codes are complex and need a legal evaluation, the Office of Property Assessment relies on the Office of Law to ensure compliance with the two Codes.

In an early meeting with the Office of Property Assessment, management informed us that they have not always been able to get timely answers to their legal questions from the Office of Law. The attorney for Finance issues has changed frequently in the last few years and there has been a lack of continuity. (We believe there will be more continuity now as a result of a change in Administrations and a new County Attorney.) On January 31, 2017, we sent a memorandum to the Office of Law seeking clarification of several legal questions of our own. The Office of Law responded to our memorandum on June 5, 2017 and resolved most of our questions. However, the questions and answers, together with our observations, highlight a few areas of concern:

- The *Qualification for Exemption for Residents 65 years Old and Older* section in the 2015 Senior tax exemption application included the wording:

“No application shall be approved unless all taxes and sewer service charges then due to or collectible by New Castle County have been paid in full, or in instances where the assessed value of the property for which the application is made does not exceed \$78,000 and the applicant is actively enrolled and making monthly payments of any tax or sewer charges due to or collectible by New Castle County as determined by the Office of Finance at the time of the application.”

However, NCC Ordinance 11-052 (effective 5/9/2011) had eliminated the assessed value limit of \$78,000 for those seniors or disabled persons actively enrolled in a delinquent payment program. Therefore, the 2015 exemption application should not have included the \$78,000 assessed value stipulation as a condition for receiving a Senior exemption.⁴ The Office of Property Assessment informed us that the error was fixed for the 2016 and 2017 application forms available on the County website but, due to a technical glitch, the

⁴ Since we did not perform any testing of applications prior to 2015, we are assuming that this error existed between the date the ordinance became effective and 2015.

application forms mass mailed to those who had requested them still had the \$78,000 assessed value stipulation. The Office informed us that this has since been resolved.

- New Castle County Code Chapter 14, Article 6, Section 14.06.303 provides:

“B. Disability exemptions for those making application on or after tax year 2008:

1. Qualifications. Every resident who is disabled, as defined by Section 14.06.301, and who has become disabled prior to July 1st of the fiscal year for which the exemption is sought and who or whose spouse resides in a house owned by him or her that is his or her principal residence shall be entitled to an exemption from all real property taxes, exclusive of any local light and ditch taxes, to an assessed value not exceeding thirty-two thousand dollars (\$32,000.00), provided his or her income does not exceed fifty thousand dollars (\$50,000) per year or, in the case of a married couple the combined income of the two (2) of them does not exceed fifty thousand dollars (\$50,000.00) per year

2. Amount of disability exemption. A person who is disabled as defined by Section 14.06.301 and who meets the requirements prescribed in Subsection A shall be entitled to an additional exemption from all real property taxes, exclusive of any local light and ditch taxes, to an assessed valuation not exceeding forty-two thousand dollars (\$42,000.00), provided his or her disability is due to the loss or loss of the use of both lower extremities or both upper extremities or both an upper and lower extremity such as to preclude locomotion without the aid of a brace, crutch, cane, or wheelchair and such as to require a home with special fixtures.”

In its June 5 2017 response to our January 31 2017 legal memorandum on tax exemptions, the Office of Law informed us that Section 14.06.303B.2 above provides for an additional exemption of up to \$10,000 in assessed value, for a total not to exceed \$42,000 in assessed value. However, the Office of Property Assessment currently grants an exemption up to

\$74,000 (\$32,000 + \$42,000) to persons who meet the requirements of Section 14.06.303B.2. As of 11/23/2016, there were 29 parcels which were receiving an exemption greater than \$42,000 due to this practice.

- New Castle County Code, Chapter 14, Article 6, §14.06.301 provides:

“Income means adjusted gross income, as defined under the Internal Revenue Code of 1986 or any successor thereto, as amended from time to time, but excluding social security and tier 1 railroad retirement benefits, plus the amount of capital gains excluded from such adjusted gross income. For any fiscal year for which an exemption is claimed, income shall be the income received during the calendar year immediately preceding the fiscal year for which exemption is sought.”

As a policy matter, the Office of Property Assessment does not obtain and review a copy of the Schedule D (Capital Gains and Losses) attached to the Form 1040, if the applicant had capital gains and/or losses. Thus, the Office does not add back to income any capital gains which may have been excluded from adjusted gross income by virtue of being offset by capital losses.

- New Castle County Code Chapter 14, Article 6, Section 14.06.305(A) provides in part:

“When, because, of the change in health or death of the eligible resident, transfer of ownership, or any other change in status, a property no longer qualifies for an exemption granted under this Division, the exemption shall terminate at the end of the current tax quarter. The tax on the property should be levied upon the commencement of the next tax quarter and, if not paid, shall be subject to penalties as prescribed by State law.”

The Office of Property Assessment informed us that an exemption may be left on a property if the Assessment Technician has verified that the new owner will most likely be exempt (e.g., a church) or if one of the owners is still living in the property (e.g., wife of deceased husband). The Office of Law, in response to our January 31, 2017 memorandum, has questioned whether this practice complies with Section 14.06.305(A).

- Delaware State Code Title 29, Chapter 19, Chapter 61, Section 6102(q)(3) provides:

“Local school boards shall decide through majority vote of the whole school board whether to authorize a credit against taxation imposed pursuant to Chapter 19 of Title 14 on the valuation of any qualified property, as defined herein, owned by a person who, as of the beginning of the tax year, is of the age of 65 or more. The maximum such credit shall be the lesser of 50% of such tax remaining after taking into account any exemption pursuant to Title 9 and Title 22, or \$500. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to this section ...”

We are not aware that the Office of Property Assessment has ever requested from the School Boards documentation confirming that the board has voted to authorize this tax credit (although we have no reason to believe that every School Board has not authorized it).

Recommendations – Office of Property Assessment, Office of Law

We recommend:

- The Office of Property Assessment request the Office of Law to review and approve its current policies and procedures relating to exemptions, ensuring compliance with State and County Codes and no conflicts between the two Codes.

- The Office of Law take a more proactive approach in ensuring any applicable changes (regarding exemptions) to State and County Codes are communicated to the Office of Property Assessment so that it can make any necessary changes to its policies and procedures.
- The Office of Property Assessment correct the manner in which it calculates, for the additional disability exemption, the total assessed value exempted.
- The Office of Property Assessment consult with the Office of Law on the following:
 - Whether the County is in compliance with County Code on the calculation of income for the Senior and Disability tax exemptions.
 - Whether there are any situations where it is legally sound for an exemption not to be removed from a property when there is a change in status.
 - Whether the County should request documentation from the School Districts confirming that the School Board has voted to authorize the school tax credit.

Management's Response – Office of Law

- The Office of Law researched this issue (of additional disability exemption, pgs. 24 and 25) and traced the legal history of these disability exemptions back to the year 1974. Upon further review and analysis of this legal issue, the Office of Law has concluded that Section 14.06.303B.2 above provides for an additional exemption of up to \$42,000 in assessed value. Therefore, the County Code provides for an exemption of \$74,000 (\$32,000 + \$42,000) for qualified persons. Whether this dollar amount is appropriate is a policy matter.
- The Office of Property Assessment should obtain from the applicant appropriate documentary information regarding the amount of capital gains excluded from the adjusted gross income, and add that amount to the income calculation.
- The Office of Law is pleased to report that it is very proactive in communicating changes in the State and County Codes to the Office of Property Assessment. Going forward, the Office of Law will highlight the importance of the Office of Property Assessment making any necessary changes to its policies and procedures.

Management's Response – Office of Property Assessment

- Assessment will send their current policies and procedures relating to exemptions to Law and request that they be reviewed for compliance with State and County Code. Assessment will send these to Law by the end of August, 2017.
- Assessment has consulted with Law and it has been determined that the current calculation (of additional disability) is consistent with code.
- Assessment will request a meeting with Law to discuss this item (calculation of income for the Senior and Disability tax exemptions). This request will be sent to Law by the end of August.
- Assessment will request a meeting with Law to discuss this item (situations where it is legally sound for an exemption not to be removed from a property when there is a change in status). This request will be sent to Law by the end of August.
- The school districts have informed Assessment that they do not have a formal approval of the school tax credit each year, but the credit is included in their budget approved by the school board.

#5: Consider performing periodic (e.g., annual) review of exempt properties for change in use.

Comment

New Castle County Code Chapter 14, Article 6, §14.06.101 provides:

“Property not held by way of investment and belonging to any church or religious society, any public school district, any nonprofit college or nonprofit school and used for

educational or school purposes, or any organization organized and operated for charitable purposes shall be exempt from all real property taxes.”

In its legal memoranda on General property tax exemptions, the Office of Law generally states “... to qualify for exemption under Delaware law, it must also demonstrate that the properties are not held by way of investment ... The determinative test of whether a property is held by way of investment is whether there is an intent to use the property primarily for the purpose of securing a profit for its owner ...”

In response to a comment in our 2010 audit report concerning tax-exempt organizations potentially holding property for investment purposes, management responded that “Beginning January 1, 2011, Assessments will begin a review of all existing General Exemption holders to ascertain non-investment status.” However, at the beginning of this audit, the Office of Property Assessment informed us that such an exercise was started but not completed due to a lack of resources.

In this audit we looked at some General exemption parcels (religious organizations, volunteer fire companies, governmental entities) to determine if the parcel (or a portion of it) could be “held by way of investment.”

In a database provided to us of all exempt parcels (except those receiving Farmland exemptions), we found that there were many parcels with an exemption effective date of August 23rd 1999 (apparently the date when there was a system conversion, most likely indicating that the actual effective date was prior to this date). This caused us to design tests for religious, charitable and governmental parcels to ensure that such dated exempt parcels and others were not continuing to receive exemptions that were no longer valid. We used recent Google images of parcels, internet searches, phone calls, and/or site visits to assess the use of the selected parcels.

Our review revealed the following:

- We personally visited 20 parcels having a religious exemption and found that five of the parcels are questionable as to whether the property is being used for religious purposes. Please note, however, that the County Code does not specify the property has to be used for religious purposes; it just specifies that the property has to be “not held by way of investment.” Therefore, the question becomes whether these properties are being “held by way of investment.”
- Three parcels owned by volunteer fire companies that could be identified as being “held by way of investment.” We asked the Office of Law for its opinion on the apparent conflict (regarding the “not held by way of investment” provision) in State and County Codes with respect to volunteer fire companies.⁵ The opinion from the Office of Law states that “A volunteer fire company satisfying *New Castle County Code* Section 14.06.102 is exempt from county property taxes and school property taxes, regardless of whether there is a separate basis for such exemption pursuant to the *Delaware Code*. 14 *Del. C.* § 1902.” Therefore, these three parcels are not exceptions.
- A couple of governmental parcels that appear to have renters.

We have provided the Office of Property Assessment with the names and parcel numbers of the religious and governmental properties for further investigation.

We think it is interesting to note that the City of Philadelphia’s Office of Property Assessment (OPA) has recently been taking a hard look at property tax exemptions for certain groups (e.g. nonprofits, universities, hospitals). For example, per a five-prong test used to evaluate charitable organizations, it is not enough for the organization to own the property; the property must also be used for the charitable purpose. In some cases, the OPA has reduced the exemption from 100% to a lesser percentage.

Recommendations – Executive Office, Office of Property Assessment

⁵ County Code does not require the volunteer fire company’s property to be “not held by way of investment.”

We recommend the following:

- The Executive Office pursue a change in State Code so that property belonging to a religious institution that is not used for religious purposes should not be entitled to a tax exemption. Please note that our research revealed that states such as Florida and Washington tie religious exemptions to use for religious purposes. There are 170 vacant parcels (i.e., their building assessment is zero) owned by religious organizations in New Castle County, with a total assessment of \$3,271,400.
- The Office of Property Assessment consider hiring a summer intern(s) to perform testing similar to what we performed. Or, the Office of Property Assessment consider requiring General exemption organizations to re-apply for General exemptions periodically or to provide an affidavit regarding the use of the parcels. Please note that the City of Wilmington asks holders of General tax exemptions to reapply every 2 years.
- In the future, if the School Districts inquire about greater autonomy on tax exemptions applicable to School taxes, the Office of Property Assessment should advise them to pursue a change to 14 *Del. C.* § 1902.
- Also, please refer to our General Comment on page 12 on pursuing PILOTs for exempt parcels receiving rental income, etc.

Management's Response – Executive Office

It is important to note that in order to qualify for the exemption, County code does not specify that the property has to be used for religious purposes. Moreover, the County's Office of Law has opined that "... to qualify for exemption under Delaware law, it must also demonstrate that the properties are not held by way of investment." The Administration believes this recommendation necessitates more than a change in state law and requires further legal review. We will review this recommendation related to county and state laws, and the County staff's ability to review religious exemption holders, to determine property use and non-investment status. The Administration's target date is by March 2018.

Management's Response – Office of Property Assessment

- Assessment believes that only the Office of Law may make a decision on whether or not a property is “held by way of investment”. While a summer intern may be able to gather data for Law, ultimately the final decision must be made by Law. Assessment will consult with the Office of Law regarding your recommendation to consider requiring General exemption organizations to re-apply for General exemptions periodically or to provide an affidavit regarding the use of the parcels. Assessment will consult with Law by the end of September 2017.
- Assessment will advise the School Districts of the state code regarding tax exemptions applicable to School taxes. However, it is not the Office of Property Assessment's responsibility to advise School Districts on pursuing state legislation changes.

#6: Ensure that the parcel which is the subject of a Senior or Disability exemption application is the owner's principal residence.

Comment

Senior and Disability property tax exemptions are only for principal residences (New Castle County Code Chapter 14, Article 6, §14.06.302 and §14.06.303), and only for residents (Delaware Code Title 9, Chapter 81, §8132); therefore, an owner generally should not have exemptions on more than one parcel. Please note, however, that the Office of Property Assessment informed us that the same owner may have exemptions on adjacent parcels where one parcel is the principal residence and the adjacent parcel is a vacant lot (and such parcel is really part of the lawn for the principal residence).

Our audit testing of Senior and Disability exemption applications revealed seven situations where the same owner had exemptions on multiple parcels, and should not have. The Office of

Property Assessment has rectified these situations. The Senior and Disability application forms have a question which the applicants are required to answer regarding the use of the parcel:

“Is any portion of this property used for any purpose other than your own residence?”

The Office of Property Assessment considers a “no” answer provided by the applicant to this question to be true and the exemption gets processed. This process has worked well; however, given that we found a few instances of individual exemptions claimed by the same owner on multiple properties, it seems that this method may not be totally fail proof.

The Office of Property Assessment has removed the exemptions on the seven parcels in question. Also, the Office informed us that they have now developed a report to capture multiple exemptions with the same owner. As provided by New Castle County Code (Chapter 14, Article 6, §14.06.1110), the County can revoke any exemption given to non-principal residence parcels and collect back taxes.

“If, after the approval of an exemption of any property, the County shall determine that the exemption or part thereof was approved or renewed as a result of inaccurate or incomplete information from the applicant or his or her authorized agent, the exemption or part thereof shall be revoked and taxes plus penalties at the prevailing rates shall be levied against such property for the years affected, not to exceed five (5) years.”

Recommendation – Office of Property Assessment

We recommend that the Office of Property Assessment use the newly-developed report to detect and correct situations where the same owner illegitimately has exemptions on more than one parcel and, where irregularities are found, take steps to recover the taxes not paid.

Management's Response – Office of Property Assessment

Assessment has been and will continue to use the newly developed report to capture and correct parcels with duplicate exemptions and will take the necessary steps to make all appropriate corrections.

#7: Review and update documentation policy for Senior and Disability exemptions.

Comment

The applications for the Senior and Disability property tax exemptions require the following for proof of income and disability:

- Senior: Federal Form 1040 and copies of 1099 Forms. The applicant is also required to sign a statement stating “I hereby affirm that all information provided herein is true to the best of my knowledge and belief. I attach a copy of all IRS forms filed for the previous calendar year to assist in determining my eligibility for exemption under New Castle County Code. I hereby authorize New Castle County to verify any information relating to my eligibility with the IRS, State Division of Revenue, or any other governmental agency.”
 - Note: Our 2010 Audit of Property Tax Exemptions had recommended that the Office of Assessment consider requiring additional proof for income (such as the applicant's W-2s). In its response, the Office of Property Assessment had indicated that beginning with the next exemption filing period, applicants would be required to provide a copy of their W-2s. Management has apparently now made a decision to not require this. (Our review of a sample of Senior and Disability exemption applications revealed that W-2s were not required as a proof of income).

- Disability:
 - Income: Federal Form 1040 and copy of Social Security Award Certificate. If the applicant is no longer required to file a Federal tax return, he/she must provide a copy of the Form SSA-1099 (i.e., the annual Social Security Benefit Statement).
 - Disability: Social Security Award Certificate. If the applicant does not have one, he/she must have a physician sign (as verification of the disability) one of two paragraphs on the application form.

We tested a sample of 25 Senior and 23 Disability exemption applications and found:

- For Senior exemption applications, most documents provided by applicants for proof of income were either Form 1040 or Form 1099 (as required in the application). However, for Disability exemption applications, a wide variety of documents other than Forms 1040 and SSA-1099 had been received – Social Security Income/Benefits letter/statement, bank statement, W-2, and State assistance proof. Each of these forms may indeed be sufficient to meet management’s objective of verifying the applicant’s income; however, if so, management should update its policies, procedures, and application form accordingly.
- For proof of disability for the Disability applications, applicants had provided a Social Security benefits letter with disability benefits indicated, a Social Security benefits letter with no mention of disability benefits, a rating decision letter from the Delaware Commission of Veteran Affairs, a Social Security Administration 1099, and a Social Security Administration’s “Retirement, Survivors and Disability Insurance” Notice of Award. Only two applicants had provided the required Social Security Award Certificate and five had provided the alternate requirement, a physician’s attestation on the application form. Each of the other forms noted in this paragraph may indeed be sufficient to meet management’s objective of verifying the disability; however, if so, management should update its policies, procedures, and application form accordingly.
- For the three-year state residency requirement for both Senior and Disability exemptions (as well as for the senior tax credit), the Office of Assessment does not require any proof

from the applicant; the Office of Assessment takes the “yes” answer to this application question to be true. As a result, the possibility exists that an exemption could be granted to someone not meeting the three-year residency requirement.

- The Office of Assessment requires proof of age for the application for the Senior tax credit (STC) application but not for the application for the Senior County and School tax exemptions. Surprisingly though, of the 25 Senior exemption applications reviewed, we found that nine applicants had provided their driver’s license on their own. Perhaps this is because these applicants also applied for the STC.

Recommendations – Office of Property Assessment

- Given the wide variety of documents received and accepted by the Office of Property Assessment as proof for income and proof of disability, we recommend that the Office consult with the Office of Law on the documentation policy, at least for Disability exemptions. We also recommend that management reconsider its decision not to ask for W-2s. Please note that Sussex County also requires the applicant to return a signed copy of Form 4506-T (request for transcript of tax return from the IRS) with the Senior and Disability tax exemption applications.
- We recommend that the Office of Property Assessment verify proof of age (e.g., driver’s license) for all Senior exemption applications (not just for the STC) and the three-year residency requirement (e.g., utility bills) for all Senior and Disability applications. We believe that instituting a verification for years of residency may become more critical now as the State legislators are considering increasing the residency requirement to 10 years.⁶

Management’s Response – Office of Property Assessment

- Assessment believes that the administrative resources that it would take to develop and maintain these items as they pertain to the exemption applications would outweigh the

⁶ <http://www.delawareonline.com/story/news/politics/2017/05/01/senior-tax-credit/101153642/>

benefit. Assessment stated in a prior response that Assessment will send current policies and procedures relating to exemptions to Law for review for compliance with State and County Code. Assessment will be doing this by the end of August, 2017.

- Assessment has obtained a DMV direct access account. The main item needed to search in this system is a Driver's License number. Assessment will be adding a required field for the applicant to provide a driver's license number on senior exemption applications. Assessment plans to add this required field to the form in January 2018.

#8: Continue efforts to increase turnaround of General exemption applications, while still maintaining the same quality of research.

Comment

Our previous audit had noted that as of February 2008, there were 110 tax parcels (note that the number of parcels is generally more than the number of applications) awaiting a decision from the Office of Law on whether to grant a General property tax exemption. At the time, the Office of Law informed us that a second attorney had been assigned to review the General exemption applications to speed up the process. Yet, on January 3rd 2017, the new Administration inherited 71 backlogged General tax exemption applications, with six more arriving within the first two weeks, making the total 77.⁷ In the past, it is not clear how General tax exemption applications were assigned to attorneys within the Office of Law; however this has been a longstanding problem which was also recently discussed in a New Castle County Council Finance Committee meeting.

The new County Attorney informed us that the backlog in General exemption applications is a top priority for the new Administration and all attorneys are working on the backlog. As of

⁷ Please note that these were numbers provided to us by the Office of Law. As discussed later in the report, there was a discrepancy between the number of General exemption applications pending as reported by the Office of Law and that reported by the Office of Property Assessment.

April 7, 2017, although 14 additional applications have been received, the Office of Law has reduced the number of applications pending to 74 (with 11 of these in process).

We commend the Office of Law for taking steps to reduce the backlog of General tax exemption applications. In our research on reducing backlogs and improving timelines in the judicial system, we reviewed the U.S. Department of Justice’s Best Practices Workshop Series 2014.⁸ Some of the suggested best practices for reducing backlogs and improving timeliness, like obtaining leadership support and routinely reviewing processing metrics, seem to have been adopted by the Office of Law.

Utilizing multi-track processing (e.g., assigning levels of priority such as simple, complex, and expedited) may be another measure that could help ensure good workflow in the Office of Law’s General exemption processing. Multi-track processing can help ensure that applications are placed in the right track so that simple applications do not get stuck behind far more complicated ones.

Recommendation – Office of Law

We recommend that the Office of Law continue its efforts to reduce the backlog of General exemption applications and, going forward, take steps to keep the backlog at a more manageable level.

Management’s Response – Office of Law

The Office of Law agrees that it must continue efforts to reduce the inherited backlog of General tax exemption applications, and that going forward, it will implement procedures to assure that applications are determined in a timely matter. With respect to the inherited backlog, the Office of Law has already reduced the backlog from 71 applications to 47

⁸ <https://www.justice.gov/oip/best-practices-workshop-series>

applications (this number is inclusive of new applications filed since January 3). The Office of Law has taken special steps to achieve this reduction, including holding an In Service Day held during the week of June 12, 2017 that was completely dedicated to the review and determination of pending exemption applications. Also, the Office of Law has created new decision letter templates to facilitate more timely and consistent determinations.

#9: Consider charging a fee for the processing of General tax exemption applications.

Comment

New Castle County (NCC) Code Chapter 14, Article 6, §14.06.1106B states “No application fee is required of owners of potentially exempt property pursuant to this article.”

Our 2010 audit report had recommended that management consider asking County Council to amend NCC Code to allow for the charging of an application fee for property tax exemptions. Management responded that they supported a \$100 fee for General exemption applications but not for any of the other types of exemption applications. Apparently, however, management never approached County Council about this idea.

The Office of Law performs a detailed legal analysis of each General tax exemption application and, thus, we believe the amount of time spent by Law warrants the charging of an application fee. Also, we believe the organization applying for the application would not argue against paying a small fee as it stands the possibility of obtaining an exemption and thus significant savings to the organization.

As noted in our prior audit report, the City of Wilmington charges a \$25 application fee for its “non-profit” application. Also, our research revealed that there are other municipalities that charge such application fees.

Recommendation – Office of Property Assessment

We again recommend that management pursue, with the Executive Office and County Council, the idea of changing County Code to allow for the charging of an application fee for General exemption applications. If Code is changed, management should then determine what the dollar amount should be (an amount which is fair to both the applicant and to the County).

Management’s Response – Office of Property Assessment and Executive Office

Assessment does not believe that such a change would be supported by Council. In several recent Finance Committee meetings, Council members have expressed their displeasure about the fact that certain organizations have to file an application at all.

#10: Ensure reports meet desires of end users and that any reports distributed to external users reflect accurate information.

Comment

The Office of Property Assessment is the custodian of all assessment and exemption data for New Castle County. The numbers provided by them are used in creating the County’s budget forecasts and various financial reports, evaluating property tax rates, etc. Hence, it is very important that data provided by the Office is accurate. We have no reason to believe that most of this information is not accurate; however, during this audit, we came across the following discrepancies in reports generated by the Office:

- According to the Statistical Section in the Fiscal Year (FY) 2016 Comprehensive Annual Financial Report (CAFR), the tax-exempt property in New Castle County totaled

\$4,227,683,000 in 2016 (Exhibit C-1). However, the 2016 Comprehensive Annual Budget Summary (CABS) states:

“Assessed real property values partially or totally exempt from the real estate property tax total \$5.2 billion or 21.5% of the gross \$23.9 billion property assessments. The largest component of exempt property is the general exemptions category which is \$4.2 billion, or 82% of total exemptions granted of assessed property.”

The Office of Property Assessment informed us that the amount in the CAFR is actually the total of only the General exemptions amount and the City of Wilmington Tax Incentive amount; it does not include Senior, Disability and other exemption amounts. (Please note that the external auditors do not substantiate this data because the Statistical Section is not a required part of the basic financial statements and is, thus, not subject to audit.)

- The Office of Property Assessment provides the School Districts with a quarterly report on “Assessment Totals by School District.” This report includes, among other data, information on the effect on the assessment roll of exemptions added or removed by the Office for the quarter. For the second quarter in FY 2017, the report indicated that commercial properties received \$2,380,600 in Over 65 exemptions. We are not sure how commercial properties would qualify to receive Over 65 exemptions since the Senior exemptions are for principal residences. We asked the Office of Property Assessment to clarify this and some other information in the report. The Office informed us that the “Assessment Totals by School District” report was designed for the annual billing roll, not the quarterly. Therefore, there can be subtotals in the report which do not make any sense. The Office informed us that the only number the School Districts are concerned with is the total assessed value added for the quarter. We remain concerned, however, that we are sending a report to School Districts with inaccurate data (even if the School Districts really aren’t concerned with these numbers).

- The Office of Property Assessment provided us with a list of General exemption applications pending a decision from the Office of Law. It seems that this report is not regularly updated by the Office of Property Assessment and does not match the list maintained by the Office of Law. We found that some of the parcels included had already received decisions from the Office of Law as of the date of the report. Also, the list included parcels that had either been voided or combined with other parcels. It is important for a report like this to be current and accurate because reports like this serve as an important tool for management, especially when the workflow involves multiple departments. They are useful for purposes of resource allocation and for identifying any potential bottlenecks. Please note that in a meeting with the Office of Property Assessment, management emphasized that such a report would not be necessary if there was no backlog in General exemptions processing.

Recommendations – Office of Property Assessment

We recommend that the Office of Property Assessment:

- Discuss with the Office of Finance’s Accounting area the information provided on tax-exempt properties and determine whether Accounting actually wants the total of all tax-exempt properties for the CAFR.
- Determine whether to continue to provide to School Districts the “Assessment Totals by School District” report. Producing and circulating erroneous reports might create confusion among recipients and become a liability.
- The County’s tax exemptions are worth almost \$26 million. To manage a portfolio of this size, management should consider developing other reports for management purposes, such as trends in different types of exemptions approved, impact of tax incentives, monthly report on types of exemptions processed, etc. This would help policy makers make decisions regarding continuity of exemptions, need for new exemptions, etc.

Management's Response – Office of Property Assessment

- Assessment has discussed this (whether Accounting actually wants the total of all tax-exempt properties for the CAFR) with Accounting. The following is a response from Accounting: In the CAFR on Exhibit C-1, we show a schedule of assessed values for both residential and commercial property. We also show the amount of GENERAL tax exemptions that need to be subtracted in order to arrive at a net Taxable Assessed Value. While the commercial properties are listed at TOTAL ASSESSED VALUE the residential properties are listed NET OF SENIOR & DISABILITY EXEMPTIONS. The tax exempt property column then represents only the GENERAL tax exemptions since they could apply to either residential or commercial properties. The residential property column is shown net of the senior and disability exemptions since these types of exemptions apply only to residential properties. On future versions of the CAFR starting with Fiscal Year 2017, we are going to add a note to the tax exempt property column clarifying that the exemptions only represent general exemptions and that the residential column is net of the senior and disability exemptions.
- Assessment has stopped attaching (the “Assessment Totals by School District”) report to the letter that goes to the school districts.
- Assessment will review the current reports available to management and inform management by the end of 2017 if additional reports should be created.