



STATE OF TENNESSEE  
**COMPTROLLER OF THE TREASURY**  
DEPARTMENT OF AUDIT  
DIVISION OF COUNTY AUDIT  
SUITE 1500  
JAMES K. POLK STATE OFFICE BUILDING  
NASHVILLE, TENNESSEE 37243-0269  
PHONE (615) 401-7841

March 16, 2007  
(Corrected)

Honorable Claude Ramsey, County Mayor  
Hamilton County Commissioners  
Courthouse  
Hamilton County, Tennessee

On November 30, 2006, the Hamilton County Commission approved Resolution No. 1106-37, which requested that the Tennessee State Comptroller and his staff initiate an audit of various concerns surrounding the operations of the Hamilton County Trustee's office for the appropriate handling of Hamilton County Funds. In a letter dated December 15, 2006 this office agreed to review the Audit of Various Issues Surrounding the Operations of the County Trustee (the Report) prepared by the County Auditor's office and dated November, 2006, the supporting workpapers and to conduct interviews of appropriate Hamilton County officials and employees.

We examined the report prepared by the County Auditor's office together with the workpapers supporting the Report. We interviewed Hamilton County officials including the County Mayor, Chairman of the County Commission, two County Commissioners, County Auditor, Assistant County Auditor, Finance Director, the County Trustee, and all employees of the Trustee's office, and three former employees of the Trustee's office. Our examination focused on two areas, the waiver of interest and penalty on delinquent taxes and the late filing of required reports by the Trustee's office.

**WAIVER OF INTEREST AND PENALTY ON DELINQUENT TAXES**

State statutes govern the assessment of interest and penalty for delinquent taxes. Section 67-5-2010(a)(1) Tennessee Code Annotated (TCA) provides that "To the amount of tax due and payable, a penalty of one-half of one percent (.5%) and interest of one percent (1%) shall be added on March 1, following the tax due date and on the first day of each succeeding month..." For taxes sent through the mail Section 67-1-107(a)(3), TCA provides that any tax remittance made to any political subdivision that is "Transmitted through the United States mail to the state or political subdivision and postmarked no more than twenty-four (24) hours subsequent to the last date for the timely filing of such document or payment, shall not be considered delinquent; however, any such document or payment, transmitted through the United States mail to the state or political subdivision and postmarked more than twenty-four (24) hours subsequent to the last date for timely filing, shall be subject to any late charges, penalty and interest otherwise chargeable..."

Based on the Trustee's records the majority of the adjustments for interest and penalty appear to be because the documents were postmarked within an acceptable period as established by the statute. Without the actual envelopes with the postmark dates, it is impossible to say with certainty that the interest and penalty was properly waived in all instances. In most instances where the interest and penalty was waived based on the postmark date the funds were received into the office within five days of the end of the month. For those funds received in the first five days of the month, it would be reasonable to assume that the interest and penalty was waived in accordance with the statute. It is our understanding that the Trustee has agreed to the county auditor's recommendation to retain the envelopes for those collections where the interest and penalty is waived because of the postmark and the funds are received more than five days after the end of the month.

The vast majority of the remaining adjustments appear to be for storm water adjustments, assessment changes and bankruptcy. There were some receipts where the interest and penalty was waived and there was no notation in the comment box of the receipt as to why the interest and penalty was waived. This comment box should be completed for each receipt where the interest and penalty is waived. The County Auditor recommended that the comment box be completed in each instance where the interest and penalty is waived and it is our understanding that the Trustee has agreed with the recommendation and will comply.

As listed in the county auditors report there were a few instances where tax relief was granted for what the Trustee thought were valid reasons. However, the reasons given by the Trustee were not valid reasons under the statute. In these instances, the amounts involved appear to be nominal.

Based on our review of the workpapers and our interviews we agree with the County Auditor's conclusions concerning the waiver of interest and penalty on delinquent taxes. We also determined that although there were instances where the statute concerning the collection of interest and penalty may not have been enforced in strict compliance with the law, the office did not appear to have a policy to grant relief for interest and penalty for reasons that were not valid and in accordance with state statute.

### **FILING OF MONTHLY AND ANNUAL TRUSTEE REPORTS**

Section 67-5-1902 (a)(1) and (2) provides for the Trustee to file a monthly report by the tenth of the month of all taxes collected during the preceding month with the County Mayor and for this report to be spread upon the minutes of the county legislative body. Section 67-5-1902(b)(1) provides for the Trustee to file a financial report on or before the first Monday in September, for the year ended June 30, of the condition of the trustee's office. This report is required to be filed with the County Mayor and with the County Clerk who shall provide a copy to each member of the county legislative body.

As reflected in the County Auditor's report the Hamilton County Trustee did not file monthly reports by the tenth of the month for the period July, 2005 through December, 2006. Also, the Trustee's office did not file an annual financial report for the 2006 fiscal year by the first Monday in September, 2006. Based on our review of the workpapers and our interviews we agree with the County Auditors conclusion that the delay in filing the reports appears to be due to problems that existed in implementing the new accounting and financial reporting system for

the county titled “Integrated Financial and Administrative Solutions” (IFAS). Based on our interviews the problems that existed with the implementation of the system appear to have been resolved. In February, 2007 the Trustee’s office had filed the required monthly and annual financial reports for the period July, 2005 through January, 2007. The Trustee stated that the office would now be able to submit future reports by the required dates.

Section 67-5-1902 (b)(2) TCA provides that the Trustee shall not be allowed commission when the Trustee fails to file the reports required by this statute if the Trustee failed or refused to make the filing, willfully with full knowledge, **for the purpose of defrauding** the state, county or municipality. As we previously stated, we feel the Trustee failed to file the required reports because of difficulty in implementing the IFAS system and it was not done for the purpose of defrauding the state, county or municipality. Therefore, the Trustee would be allowed the commissions earned by the office.

We wish to thank the officials and employees of Hamilton County for their cooperation in the preparation of this report.

Sincerely

Art Alexander, Director