

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL**

**AUDIT OF THE MANAGEMENT OF
COMMERCIAL PROPERTY INCOME AND
EXPENSE REPORTS BY
THE OFFICE OF TAX AND REVENUE'S
REAL PROPERTY TAX
ADMINISTRATION**



**CHARLES J. WILLOUGHBY
INSPECTOR GENERAL**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



May 15, 2009

Natwar M. Gandhi, Ph.D.
Chief Financial Officer
Office of the Chief Financial Officer
1350 Pennsylvania Avenue, N.W., Room 209
Washington, D.C. 20004

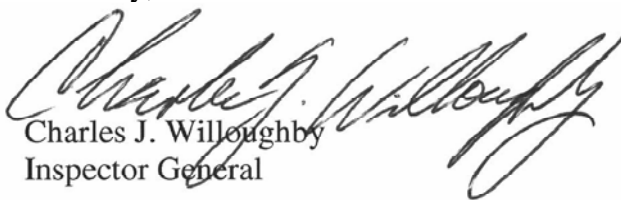
Dear Dr. Gandhi:

Enclosed is our final report summarizing the results of the Office of the Inspector General's (OIG) *Audit of the Management of Commercial Property Income and Expense Reports by the Office of Tax and Revenue's Real Property Tax Administration* (OIG No. 08-2-01AT).

Our report contains five recommendations for necessary actions to correct the described deficiencies. The Chief Financial Officer, Office of the Chief Financial Officer (OCFO), provided a written response to a draft of this report on May 1, 2009. We reviewed the response and consider actions taken and planned by OCFO to be responsive and meet the intent of our recommendations. The full text of OCFO's responses is included at Exhibit C.

If you have questions, please contact William J. DiVello, Assistant Inspector General for Audit at 202-727-2540.

Sincerely,


Charles J. Willoughby
Inspector General

Enclosure

CJW/ws

cc: See Distribution List

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**AUDIT OF THE MANAGEMENT OF COMMERCIAL PROPERTY
INCOME AND EXPENSE REPORTS BY THE OFFICE OF TAX AND
REVENUE’S REAL PROPERTY TAX ADMINISTRATION**

ACRONYMS/ABBREVIATIONS

AD	Assessment Division, Real Property Tax Administration
BRPAA	Board of Real Property Assessments and Appeals
CAMA	Computer Assisted Mass Appraisal
DCFO	Deputy Chief Financial Officer
DCMR	District of Columbia Municipal Regulations
I & E	Income and Expense
OCFO	Office of the Chief Financial Officer
OIG	Office of the Inspector General
OTR	Office of Tax and Revenue
RPTA	Real Property Tax Administration

**AUDIT OF THE MANAGEMENT OF COMMERCIAL PROPERTY
INCOME AND EXPENSE REPORTS BY THE OFFICE OF TAX AND
REVENUE’S REAL PROPERTY TAX ADMINISTRATION**

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EXECUTIVE DIGEST

OVERVIEW

The Office of the Inspector General (OIG) has completed an *Audit of the Management of Commercial Property Income and Expense Reports by the Office of Tax and Revenue's Real Property Tax Administration* (OIG No. 08-2-01AT). This audit was requested by the former Interim Director, Office of Tax and Revenue (OTR). The audit objective was to review processes in the Real Property Tax Administration (RPTA) within OTR and determine whether officials established and implemented internal controls designed to adequately safeguard against fraud, waste, and mismanagement.

RPTA administers the real property assessments and tax laws of the District of Columbia (District) through its Assessment Division (AD), Assessment Services Division, and the Recorder of Deeds. The AD's mission is to annually bill, collect, and account for real property taxes, conduct the annual real property tax sale, and bill and collect other taxes as required.

Assessment Division. The AD is headed by the Chief Assessor, who reports to the Director RPTA. The AD is responsible for the valuation of all real property for ad valorem purposes,¹ maintains the tax roll and property mapping system, and administers all real property tax laws. In general, the AD undertakes the valuation of approximately 184,000 parcels of real property in the District, including taxable or exempt, commercial or residential, and vacant or improved property. It is responsible for the discovery, identification, description, classification, and valuation of all real property in the District for tax purposes. To accomplish its mission, the AD is divided into five units. These units are Residential, Commercial, Maps and Titles, Standards and Services, and Exemption.

Commercial Unit. The Commercial Unit is responsible for assessing all commercial property in the District including apartments, hotels, motels, office buildings, service stations, banks, and other commercial property or special purpose property. Assessment activities include field inspection and valuation of new commercial construction and improvements or renovations to real property; collection and analysis of sale, income, and expense statements; and development of capitalization rates, floor area ratios, and units of comparison for the equitable valuation of commercial property. Two sections of the Commercial Unit are the general and major commercial property sections.² Our audit focused on AD operations relative to major commercial property.

¹ 2008 Real Property Tax Administration Brochure, designed to answer commonly asked questions and inform tax payers about RPTA functions, defines ad valorem as a tax assessed on real property based on the value of that real property.

² Major commercial properties are those valued at over \$4 million.

EXECUTIVE DIGEST

CONCLUSIONS

The RPTA did not establish basic internal controls that would have identified commercial property owners who did not file Income and Expense (I & E) Reports, filed late reports, or filed I & E Reports with inaccurate or incomplete data. Further, various RPTA officials charged with the responsibility of enforcing I & E reporting provisions of the District of Columbia real property tax laws failed to do so for a period of at least 10 years.

Consequently, RPTA did not collect an estimated \$11.8 million in penalties for noncompliance with legal reporting requirements during 2006 that should have been assessed and billed to noncompliant commercial property owners between March and September 2008. If similar situations existed for 2007 report submissions and, to a lesser extent, during the submission of 2008 reports, a conservative estimate of lost penalty revenues for those two periods could be approximately \$13.2 million. Total lost penalty revenues for all three periods may have exceeded \$25 million.³

SUMMARY OF RECOMMENDATIONS

We directed five recommendations to the Chief Financial Officer. The recommendations focus on establishing and implementing effective internal controls to:

- Develop procedures to ensure that all commercial property owners in the District of Columbia receive I & E forms as required by law, specifically D.C. Code § 47-821(d)(1) and Title 9 District of Columbia Municipal Regulations (DCMR) § 332.2;
- Fully account for all I & E Reports submitted by commercial property owners, allow for legitimate reasons concerning the need to submit a report and requests for extensions of time, and identify all commercial property owners who did not submit a report or request an extension;
- Establish procedures to assess a 10 percent penalty against commercial property owners who fail to file an I & E Report, file a late report, or file an inaccurate or incomplete report, and to document waivers of such penalties;
- Establish prompt service to commercial property owners requesting a waiver of the filing deadline that includes provisions to penalize commercial property owners who fail to file a report within 30 days or file a late, inaccurate, or incomplete report; and

³ Lost interest income was not included in our calculations because of the large number of I & E Reports improperly filed or submitted and the condition of the records at the time of our review.

EXECUTIVE DIGEST

- Conduct frequent oversight reviews of the processes governing I & E Reports to ensure that commercial property owners are penalized for failing to comply with the law and requests for extension are handled properly, and that policy and procedures are revised promptly when oversight reviews disclose a need for change

A summary of potential benefits resulting from the audit is shown at Exhibit A.

MANAGEMENT ACTIONS

Early in our audit, we advised RPTA officials of our concerns over the failure to enforce the D.C. tax law (D.C. Code § 47-821) as it pertains to penalties associated with I & E Reports. Additionally, we discussed our initial estimates of penalty revenue losses which we believe could be substantial. As our audit progressed and problems were identified, we alerted RPTA managers of the need for corrective actions. Senior RPTA officials took prompt action to address the conditions noted. Highlights of these actions include:

1. Issuing an important notice to income producing property owners of the need to fully comply with I & E reporting requirements, stressing that failure to comply would result in a 10 percent penalty, and ordered the widest possible distribution of this notice.
2. Taking steps to ensure that a copy of this notice was included in the mailing of each I & E form sent to income producing property owners in 2008 and personally supervised the operation.
3. Writing a letter to all District property owners who failed to file a tax year 2008 I & E form, advising them that they were liable for a 10 percent penalty in the ensuing tax year. The letter warned noncompliant commercial property owners that this was their second and final notice, established a mandatory reporting date of September 1, 2008, and provided instructions on how to apply for a waiver if one should be necessary.⁴
4. Proposing a program consisting of nine actions to improve operations. Corrective measures on at least two actions were completed before our audit concluded, three actions were under development, and the remaining four were being evaluated.

⁴ These are RPTA's internal administrative procedures. However, D.C. Code § 47-821 and its implementing regulations make no provision for a second and final notice, a filing date other than that stipulated by law (April 1st), or a request for extension of time to file other than April 1st.

EXECUTIVE DIGEST

Procedures are in place and under development that should result in substantial improvements. We view the actions taken by management as initial proactive measures that should address the reported deficiencies.

The OCFO provided a written response to a draft of this report on May 1, 2009. We reviewed the response and consider actions taken and planned by OCFO to be responsive and meet the intent of our recommendations. It should be noted that for fiscal year (FY) 2009, OCFO has identified \$6.5 million in penalties. The full text of OCFO's response is included at Exhibit C.

INTRODUCTION

BACKGROUND

According to its website, Office of Tax and Revenue (OTR), Real Property Tax Administration (RPTA) administers the real property assessments and tax laws of the District of Columbia (District) through its Assessment Division, Assessment Services Division, and the Recorder of Deeds. The mission of the Assessment Division is to annually bill, collect, and account for real property taxes, conduct the annual real property tax sale, and bill and collect other taxes as required

Assessment Division. The Assessment Division (AD) is headed by the Chief Assessor, who reports to the Director, RPTA. The AD is responsible for the valuation of all real property for ad valorem purposes, maintains the tax roll and property mapping system, and administers all real property tax laws. In general, the AD undertakes the valuation of approximately 184,000 parcels of real property in the District, including taxable or exempt, commercial or residential, and vacant or improved property. It is responsible for the discovery, identification, description, classification and valuation of all real property in the District for tax purposes. To accomplish its mission, the AD is divided into five units:

1. Residential – conducts residential valuation including condominium and cooperative properties.
2. Commercial – conducts commercial valuation including general and major commercial properties.
3. Maps and Titles – is responsible for tax roll administration.
4. Standards and Services – develops guidelines and procedures; conducts Computer Assisted Mass Appraisals (CAMA); and administers minor tax programs and mailings, vendor liaison, and training.
5. Exemption – administers the real property tax exemption laws.

Commercial Unit. The AD's Commercial Unit is responsible for assessing all commercial property in the District including apartments, hotels, motels, office buildings, service stations, banks, and other commercial or special purpose property. Assessment activities include field inspection and valuation of new commercial construction and improvements or renovations to real property; collection and analysis of sale, income, and expense statements; and development of capitalization rates, floor area ratios, and units of comparison for the equitable valuation of commercial property. Our audit focused on AD operations relative to major commercial property.

INTRODUCTION

Authority to Assess. The legal basis for real property tax assessment is Title 47, “Taxation, Licensing, Permits, Assessments and Fees,” of the D.C. Code. Various sections or chapters within that title establish the guidelines for the assessment of real property tax in the District of Columbia. Additionally, Title 9 of the District of Columbia Municipal Regulations (DCMR) contains the regulations that implement the assessment and tax laws of the District of Columbia.

OBJECTIVES, SCOPE, AND METHODOLOGY

This audit was performed in response to a request by the former Interim Deputy Chief Financial Officer to conduct an audit of OTR in connection with the recent disclosure of fraudulent real property tax adjustment refunds. Our audit objectives were to review processes in the RPTA within OTR and determine whether officials established and implemented internal controls designed to adequately safeguard against fraud, waste, and mismanagement. Our audit objectives focused on tax assessment processes for commercial property.

To accomplish our objectives, we reviewed the controls, processes, and procedures used in the management of income and expense (I & E) reports in order to obtain an understanding of RPTA operations regarding the submission and processing of commercial property I & E Reports. Additionally, we examined the management of waivers submitted by commercial property owners who requested extensions of time to file I & E Reports.

We interviewed past and present RPTA managers and senior staff members charged with assessing the value of major commercial properties for property tax purposes. We reviewed RPTA files containing I & E Reports submitted in tax year 2006, the most current data available at the time of our audit. The poor condition of the records concerning I & E Reports for tax years 2007 and 2008 precluded expanding the scope of our audit work to those 2 years. However, we were able to estimate the financial impact of penalty revenue losses for tax years 2007 and 2008.

We attempted to evaluate policies, procedures, and internal controls over RPTA’s management of I & E Reports; however, none were in place. Consequently, we had to rely exclusively on the provisions of Title 47 of the D.C. Code and Title 9 of the DCMR to understand how I & E Reports should be managed. We compiled our data and conducted a search for missing reports with the assistance and coordination of RPTA operations personnel and senior managers. We based our monetary impact estimates on penalties associated with annual taxes assessed on commercial properties whose owners failed to file I & E Reports, as required by law.

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We relied on computer-processed data from RPTA's Alchemy System to identify the universe of I & E forms mailed to and reports returned by commercial property owners for tax year 2006. Although we did not perform a formal reliability assessment of the computer-processed data, we traced or verified selected data to supporting documents and records.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those 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.

FINDING AND RECOMMENDATIONS

FINDING: MANAGEMENT OF COMMERCIAL PROPERTY INCOME AND EXPENSE REPORTS
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SYNOPSIS

The RPTA did not establish basic internal controls that would have identified commercial property owners who did not file Income and Expense (I & E) reports, filed late reports, or filed I & E Reports with inaccurate or incomplete data. Further, various RPTA officials charged with the responsibility of enforcing I & E reporting provisions of the District of Columbia real property tax laws failed to do so over a period of at least 10 years.

Consequently, RPTA did not collect an estimated \$11.8 million in penalties for noncompliance with legal reporting requirements during 2006 that should have been assessed and billed to noncompliant commercial property owners between March and September 2008. If similar situations existed for 2007 report submissions and, to a lesser extent, during the submission of the 2008 reports, a conservative estimate of lost penalty revenues for those two periods could be approximately \$13.2 million. Total lost penalty revenues for all three periods may have exceeded \$25 million.

DISCUSSION

RPTA uses contractor services to mail I & E forms to commercial property owners. Property owners submit signed reports to the RPTA program coordinator, who enters the I & E Reports into a computerized data system and forwards them to the Commercial Properties Assessment Division. Due to the volume of reports received, there are processing delays associated with data entry of up to 3 months. The reports are then provided to assessors and used to determine the assessed value of the commercial properties.

We inquired about how RPTA officials accounted for the forms mailed to commercial property owners to make sure that reports were submitted in a timely fashion. Although RPTA officials did maintain records of I & E Reports submitted by commercial property owners, we found that there was no effective method of ensuring that all I & E Reports were received on time or at all. Further, there were no procedures to ensure that noncompliant commercial property owners were held accountable for not submitting I & E Reports, for late submissions of required reports, or that property owners who failed to submit an I & E Report or submitted a late report were penalized as provided by D.C. Code § 47-821.

FINDING AND RECOMMENDATIONS

Lost Tax Penalty Revenue for the 2006 Tax Year. We tested the computerized accounting records of I & E Reports submitted to RPTA to determine if weaknesses in RPTA control procedures over the receipt of I & E Reports resulted in lost tax penalty revenues. We used report data for tax year 2006 because this was the most current data available at the time we conducted our audit work. The results of the test are shown below:

Test of 2006 Income and Expense Reports	
<u>Report Activity</u>	<u>No. of I & E Reports</u>
I & E Forms Mailed to Property Owners	13,546
I & E Reports Completed and Submitted by Property Owners	-7,169
Reports for Properties not Requiring Submission ⁵	<u>-1,683</u>
Properties for Which a Report Could Not be Found	4,694

We examined computerized data for all 4,694 commercial properties for which RPTA had no record of receiving an I & E Report and found that the annual tax for those properties in 2006 exceeded \$118 million. We computed the 10 percent penalty on each income producing property whose owner failed to file an I & E Report. Our computation (\$118 million x .10 = \$11.8 million) disclosed that RPTA may have lost as much as \$11.8 million in penalty fee revenue because it had not established sufficient controls to enforce the penalty.

To further validate the results of our review, we judgmentally selected the records for 36 of the largest income producing properties (from the 4,694 commercial properties) for which an I & E Report could not be found. The test showed that had the owners been assessed, those 36 owners each would have paid \$50,000 or more in penalties. We coordinated the search for the 36 I & E Reports with senior RPTA personnel, and failed to find a single I & E Report. We calculated that had the penalties been levied, over \$4.3 million would have been collected from those 36 commercial property owners.

⁵ Property owners did not have to submit these reports because the property was sold, the property was combined with other properties, or the property owner was a government entity.

FINDING AND RECOMMENDATIONS

Potential Lost Tax Penalty Revenue for Tax Years 2007 and 2008. The combination of poor internal controls, operating procedures, and the condition of the records concerning returned I & E Reports for tax years 2007 and 2008 precluded expanding the scope of our audit. However, because operations, controls, and management's structure were largely unchanged during the 2 years that lapsed since 2006, we made a conservative estimate that penalty revenue losses for 2007 could total the same amount, approximately \$11.8 million, as experienced in 2006.

We based our estimate on discussions with RPTA operating personnel and senior managers, who informed us that to the best of their knowledge and recollection, they knew of no circumstances that significantly altered the management procedures employed over I & E Reports between tax years 2006 and 2007. They acknowledged that penalty revenue losses could be about the same and that our conservative estimate was reasonable.

We lowered our estimate of lost penalty revenue considerably for 2008 to about \$1.4 million because senior RPTA officials promptly implemented corrective measures when we informed them of their failure to enforce the penalties and the magnitude of estimated penalty revenue losses. At our request, RPTA officials agreed to examine procedures over I & E Reports to more precisely determine potential losses and strengthen internal controls. At the time our field work concluded, RPTA's analysis was still ongoing.

Causative Factors. We attempted to determine what led to the decision not to enforce the legal requirement to impose a penalty of 10 percent of the assessed value of an income producing property when owners failed to file the required I & E Reports. We requested copies of pertinent documents and correspondence, but were told that records were unavailable or did not exist; computer support problems precluded RPTA from accounting for I & E forms sent to property owners or tracking reports submitted late or not at all; and persistent computer support problems could not be or were not corrected.

We were informed that RPTA managers in prior administrations apparently unilaterally decided not to enforce the D.C. tax laws pertaining to I & E Report submissions. This condition existed for at least 10 years. At management levels above RPTA, such as OTR and the Office of the Chief Financial Officer (OCFO), no actions were taken to determine why no penalty revenue was received or reported. Each of the factors contributing to the failure to assess tax penalties is discussed in the following paragraphs.

FINDING AND RECOMMENDATIONS

Documentation. The rationale for any decision to waive the penalty against noncompliant property owners, should be documented so that responsible officials establish a permanent record of the decision, inform senior managers of actions proposed and taken, and fully explain the rationale for a waiver granted pursuant to DCMR § 331.

No one we contacted in the RPTA had any recollection of such documentation being prepared. The Acting Director, RPTA informed us that controls over records of that nature had deteriorated because of the turnover of RPTA executives.

Computer Support. RPTA personnel indicated that computer software and hardware problems began around fiscal year (FY) 1995. Due to a lack of historical information, the extent and nature of those problems could not be ascertained with any precision. RPTA personnel speculated that there were problems with the automated methods used to compare the I & E forms mailed out to property owners with I & E Reports returned by property owners.

Further, RPTA managers could not produce a computer generated report that accurately determined who had not submitted a required I & E Report and should have been charged a 10 percent penalty. The automated processes causing this problem were apparently not corrected. Also, there was no evidence to show that this matter was brought to the attention of higher level OTR or OCFO managers.

Unilateral Management Decisions. In approximately FY 1997, the then Chief Assessor determined that the tracking processes over I & E Reports were so inadequate that RPTA was unable to determine, with an acceptable level of confidence, when required reports were filed.

Apparently, RPTA made a large number of mistakes (e.g., contacting property owners and advising them of a 10 percent penalty for the non-submission of I & E Reports that had already been filed). As a result, property owners complained vehemently to RPTA and demanded waivers of the penalty. RPTA officials believed that the office felt compelled to grant those waiver requests and that processing such a large number of requests would place an extreme burden on RPTA's limited staff resources. As stated by a senior official and staff member of RPTA, faced with a possible firestorm of complaints from property owners as well as pressure from upper management and the D.C. Council, a unilateral decision was made by the then Chief Assessor to abandon the imposition of penalties.

Upper Management Reviews. The decision to not levy penalties remained in effect, without detection by OTR and OCFO upper level managers, until disclosed by this audit. There was no evidence to indicate that checks or balances were employed or management reviews made to investigate why penalty revenues were low or stopped entirely. Such actions would have disclosed that the law was not being enforced and that the District government was incurring undetermined penalty revenue losses.

FINDING AND RECOMMENDATIONS

Additional Compliance Issues. Our audit work was limited to those instances where available records disclosed that I & E Reports were not submitted by the owners of commercial income producing properties. We compared other RPTA procedures to the applicable provisions of the DCMR. These comparisons showed that additional compliance problems may exist that could result in additional lost penalty revenues. Due to the absence of sound internal controls, lack of written procedures, and ineffective business processes, we are unable to quantify the potential lost revenue associated with RPTA's failure to comply with the following DCMR requirements.

Report Submission Problems. According to 9 DCMR §§ 330.4 - .6, owners of income producing properties are required to submit I & E Reports by April 1 of each year. Reports submitted after that date are late and property owners are subject to paying the 10 percent penalty. We found that no procedures existed to detect late reports and identify those owners not in compliance with the reporting requirement. Further, there was no record of any penalties assessed for noncompliance.

Accurate and Complete Reports. Title 9 DCMR § 330.6(b) also requires that I & E Reports submitted must be accurate and complete. Property owners who submit inaccurate or incomplete reports and fail to correct their reports after written notice by the Deputy Chief Financial Officer (DCFO) (in this instance the Director, OTR) are subject to the 10 percent penalty. We found that RPTA did not have sufficient written controls establishing criteria and assigning staff responsibilities to identify inaccurate and incomplete reports, informing higher management when such reports are identified, and monitoring compliance by owners to ensure that the proper data are submitted before the assessment process starts. There was no record of penalties assessed for noncompliance of this nature.

Undetected submission of inaccurate or incomplete I & E data can skew assessed values, result in unjustified reductions in property tax liabilities, or distort the market value of the same or other properties. Either outcome could result in reduced tax revenues.

Management of Waivers. Title 9 DCMR § 331 recognizes that instances may arise when a property owner may not, for reasons beyond the individual's control, be able to comply with the timely submission requirements for an I & E Report. The DCMR specifically identifies bases that would justify the approval of a waiver of penalties and interest: (1) death of the owner of record within 6 months prior to the due date for submission; (2) death of the taxpayer's agent within 6 months prior to the due date; (3) the legal disability of the property owner (caused by advanced age, mental illness, or physical incapacity) to appreciate the obligation to file reports when due; and (4) any other situation determined by the DCFO to be a reasonable cause for failure to file. Title 9 DCMR § 331.3 is explicit in requiring that a request for waiver fully justify the facts and circumstances surrounding the failure to submit the report on time, and be submitted in writing to, and approved by, the Director, RPTA. If found to be unsatisfactory, the request may be denied and returned to the property owner.

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Title 9 DCMR § 331.4 vests sole approval authority for a waiver of penalties and interest with the DCFO. A waiver must be submitted to and approved by the DCFO on or before November 1st following the due date for submission of the I & E Report. Lastly, 9 DCMR § 331.5 stresses unequivocally that filing of an accurate and complete report shall be a prerequisite to obtaining a waiver of penalties and interest. Because the penalties for non-submission, late filing, or submitting inaccurate or incomplete data were not enforced, there was no record of waivers submitted, approved, or disapproved. Again, we found no effective business practices or written procedures in RPTA governing the handling and management of waivers. This condition rendered an important control feature ineffective and eroded discipline in the reporting process.

Internal Controls. The management problems and associated loss of penalty revenues were attributable, for the most part, to the lack of basic internal controls. There were no written management controls or procedures to govern assessment operations such as accounting for and tracking I & E Reports, determining who filed and who did not, and which reports were late, inaccurate, or incomplete. Waivers were not managed effectively and penalties prescribed by law for those income property owners who were noncompliant were not enforced, which resulted in substantial loss of penalty revenue.

Draft Controls and Procedures. Efforts were made to improve management controls over the I & E Report process during 2006 and 2007. A contract totaling \$159,000 was competitively awarded to a women's business enterprise to develop a set of guidelines and operating procedures that contained sufficient controls and directions to facilitate the assessment function. The project manager of the contract was a former Director of RPTA who left RPTA 2 years before the contract was awarded. The work, which consisted of seven volumes of instructions and procedures, was completed and delivered to RPTA in August 2007. We scanned the voluminous work and found it to be comprehensive and possessing the basis for a highly effective set of internal controls that, with additional work, could be implemented fairly rapidly.

The procedures had been on hand since approximately August 2007 without any action taken to review the contractor's work or develop initial control measures. When we inquired as to the reasons for the delay, we were told that turnover of senior managers at the top precluded such an effort and, given the amount of material to be reviewed, RPTA did not have sufficient staff to devote to a project of this magnitude. Our concerns over internal controls energized an effort to review the draft procedures. The review conducted by RPTA officials uncovered potential problems with certain draft procedures; therefore, changes were needed to preclude erroneous interpretations by property owners that could adversely affect the assessment process.

Bar Coding I & E Reports. In attempt to exert some management controls over the process during 2006, RPTA implemented bar coding of I & E forms to record the number of forms

FINDING AND RECOMMENDATIONS

sent out and the number of reports returned. The bar coding permitted automated scanning of reports by RPTA to verify those I & E Reports received. Submitted reports were then furnished to a contractor who entered I & E Reports into the database.

However, due to procedural problems in handling the very large number of reports to be scanned at the contractor's facility, significant delays occurred (in some cases, up to 3 to 4 months) when processing and returning the I & E Reports to RPTA property assessors. Consequentially, because of the delays, the value of bar coding to the control function was diminished. RPTA continues to use bar coding.

Electronic Forms. During the course of our audit, RPTA managers explored the possibility of providing I & E forms on the Internet, similar to the federal income tax forms posted on the Internet by the U.S. Internal Revenue Service. To this end, exploratory discussions were held with managers in the District's Office of the Chief Technology Officer. RPTA managers were told that such action could cost as much as \$500,000 to implement. Further analysis by RPTA disclosed that two to three additional personnel would be needed to operate an Internet-based service. Because neither the funding nor positions were identified in the budget, no further action was taken and an innovative control measure apparently was postponed indefinitely.

RECOMMENDATIONS:

We recommend that the Chief Financial Officer:

1. Develop procedures to ensure that all owners of income producing property in the District of Columbia receive I & E forms as required by D.C. Code § 47-821(d)(1).
2. Establish sufficient controls to fully account for all I & E Reports submitted by commercial property owners, allow for legitimate reasons concerning the need to submit a report, request for an extension of time to submit a report, and identify all property owners who did not submit a report or request an extension.
3. Establish procedures to:
 - a. Assess commercial property owners with the 10 percent penalty required by D.C. Code § 47-821(d)(1) for those who do not submit the required I & E Reports and to levy the penalties.
 - b. Document decisions not to levy penalties.
 - c. Review I & E Reports received at RPTA to detect those reports that are inaccurate and incomplete and penalize those commercial property owners who fail to file accurate and complete cost data.

FINDING AND RECOMMENDATIONS

4. Establish operating procedures that provide prompt service to commercial property owners requesting a waiver of the filing deadline. Include procedures to penalize commercial property owners who fail to comply with the terms of their requests for 30-day extensions and do not file an I & E Report, file late, or fail to provide accurate and complete cost data when a waiver is granted.
5. Conduct frequent oversight reviews of the processes governing I & E Reports to ensure that:
 - a. Real Property Tax Administration officials are compliant with D.C. Code § 47-821.
 - b. Commercial property owners are penalized for failing to file when required, filing late, or filing inaccurate or incomplete data.
 - c. Requests for extensions are handled properly and expeditiously.
 - d. Procedures and policies are promptly revised when oversight reviews disclose a need for change.

MANAGEMENT COMMENTS AND OIG COMMENTS

The OCFO provided a written response to a draft of this report on May 1, 2009. We reviewed the response and consider actions taken and planned by OCFO to be responsive and meet the intent of our recommendations. Accompanying OCFO's response were excerpts of changes made to the Real Property Assessment Manual, Volume 1, concerning the real property income and expense filing program, including segments related to tax penalties, filing deadlines, and waivers. Of note, OCFO indicated that for FY 2009, the amount of the penalties for penalized properties is \$6.5 million. The full text of OCFO's response is included at Exhibit C.

EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT

Recommendations	Description of Benefit	Amount and Type of Benefit	Agency Reported Estimated Completion Date	Status ⁶
1	Internal Controls and Compliance - Establishes procedures to ensure that I & E forms are mailed to all owners of income producing property in the District of Columbia.	Non-Monetary	5/1/2009	Closed
2	Internal Controls - Establishes controls to fully account for all I & E Reports submitted by commercial property owners, and identifies all property owners who did not submit a report or request an extension.	Non-Monetary	5/1/2009	Closed
3a	Internal Controls - Establishes procedures to assess commercial property owners with the 10 percent penalty for those who do not submit the required I & E Reports and to levy the penalties.	\$31.1 million ⁷ Monetary	5/1/2009	Closed

⁶This column provides the status of a recommendation as of the report date. For final reports, “Open” means management and the OIG are in agreement on the action to be taken, but action is not complete. “Closed” means management has advised that the action necessary to correct the condition is complete. If a completion date was not provided, the date of management’s response is used. “Unresolved” means that management has neither agreed to take the recommended action nor proposed satisfactory alternative actions to correct the condition.

⁷ This amount consists of \$6.1 million in FY 2009 penalties and \$25.0 million representing lost opportunities to levy and collect penalties for FYs 2006, 2007, and 2008.

EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT

Recommendations	Description of Benefit	Amount and Type of Benefit	Agency Reported Estimated Completion Date	Status ⁶
3b	Internal Controls - Establishes procedures requiring documentation of decisions not to levy penalties.	Non-Monetary	TBD	Open
3c	Internal Controls - Develops procedures for reviewing I & E Reports to detect those reports that are inaccurate and incomplete and penalize those commercial property owners who fail to file accurate and complete cost data.	Undetermined Monetary Benefit	TBD	Open
4	Internal Controls - Establishes procedures to respond to commercial property owners requesting a waiver of the filing deadline, including procedures to penalize commercial property owners who fail to comply with the terms of their requests for 30-day extensions and do not file an I & E Report, file late, or fail to provide accurate and complete cost data.	Undetermined Monetary Benefit	5/1/2009	Closed

EXHIBIT A: SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT

Recommendations	Description of Benefit	Amount and Type of Benefit	Agency Reported Estimated Completion Date	Status ⁶
5a	Internal Controls - Requires management to conduct more oversight reviews of the processes governing I & E Reports to ensure compliance with D.C. Code § 47-821.	Non-Monetary	TBD	Open
5b	Internal Controls - Requires management to conduct more oversight reviews of the processes governing I & E Reports to ensure that commercial property owners are penalized for failure to file when required, filing late, or filing inaccurate or incomplete data.	Non-Monetary	TBD	Open
5c	Internal Controls - Requires management to conduct more oversight reviews of the processes governing I & E Reports to ensure that requests for extensions are handled properly and expeditiously.	Non-Monetary	TBD	Open
5d	Internal Controls - Requires management to promptly revise policies when oversight reviews disclose a need for change.	Non-Monetary	TBD	Open

EXHIBIT B: MAJOR COMMERCIAL REAL PROPERTY TAX ASSESSMENTS CALENDAR OF EVENTS

DATE	TAX EVENT
1 October-30 September	Tax Year
1 January	All Commercial Property Assessments Completed by Real Property Tax Administration (RPTA)
28 February	All Assessments Are in the Hands of Commercial Property Owners
15 March	Delivery Date to the Deputy Chief Financial Officer (DCFO) for a 30-day Request for Extension of Time to File an Interest and Expense (I & E) Report
1 April	All I & E Reports Are Due in RPTA
1 April	Deadline for Submission of Level 1 Appeals of Commercial Property Assessments to RPTA
15 April-30 June	Level 1 Appeals Conducted at RPTA ⁸
15 August	All Level 1 Appeals Decided by RPTA
1 October	End of 45-Day Period to Appeal Level 1 Decisions to Level 2 at the Board of Real Property Appeals and Adjustments (BRPAA) ⁹
1 October-31 December	Level 2 Appeals Conducted at BRPAA
1 November	Submission Date to the DCFO for a Request for a Waiver of Payment of Penalty and Interest for Failure to Submit an I & E Report
1 January	All Level 2 Appeals Decided by BRPAA

⁸ Property owners can dispute commercial property assessments made by RPTA assessors by formally appealing the assessed value of the property. A downward adjustment reduces the tax liability owed to the District government.

⁹ An independent board formed by the Mayor consisting of independent real estate experts from different disciplines who review the entire assessment rendered and makes a decision as to the assessed value of the commercial property. A Level 2 decision is generally viewed as final unless the property owner wishes to pursue the matter in D.C. Superior Court. No Level 2 appeal will be accepted by BRPAA unless the property owner has a Level 1 decision.

EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S RESPONSE TO DRAFT REPORT

**Government of the District of Columbia
Office of the Chief Financial Officer**



Natwar M. Gandhi
Chief Financial Officer

RECEIVED
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May 1, 2009

Charles Willoughby
Inspector General
Office of the Inspector General
717 14th St., N.W. – Ste. 500
Washington, D.C. 20005

Dear Mr. Willoughby:

This is in response to your letter dated April 7, 2009 regarding Preliminary Management Response to Draft Audit Report: Audit of the Management of Commercial Property Income and Expense Reports by the Office of Tax and Revenue's Real Property Tax.

The Office of Tax and Revenue (OTR) has had an opportunity to review the draft report and, in general terms, agrees with its findings and recommendations. The cover letter included with the report states that our response "should include actions taken or planned, target dates for completion of planned actions, and any reasons for any disagreements with the findings or recommendations."

Our response will address the actions OTR has taken to comply with the report's recommendations, the D.C. Official Code and D.C. Municipal Regulations.

As a result of the audit investigation, OTR immediately began to ensure compliance with D.C. Code and Municipal Regulations pertaining to the Income and Expense filing program, with particular attention to penalizing non-compliant filers. Over the last several months, OTR has devised and implemented a comprehensive set of procedures outlining an I&E program management that is compliant with both the D.C. Code and existing Municipal Regulations. Please find an excerpt from the Real Property Assessment Division's (RPAD) Real Property Assessment Manual, Volume 1, as adopted on December 30, 2008 attached to this response.

As a result of the implementation of the new procedures, OTR has determined that at the end of the 2009 filing period there were 2,563 non-compliant taxpayers. These taxpayers were notified that their first-half tax year 2009 tax bill would include a ten percent penalty for failing to file the required form. The letter also apprised them of the waiver process in the event the taxpayer felt the penalty was erroneous assessed.

The total 2009 annual tax amount for the penalized properties is \$65 million and therefore, the penalty amount is \$6.5 million. At the time this response is being written, OTR is reviewing the waivers that have been submitted, following the procedures outlined in the assessment manual.

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Preparations for the tax year 2010 filing season will begin soon. The possibility of electronic-filing will be discussed; however, the likelihood for implementation is remote for the coming year. OTR will continue to refine and enhance the I&E filing program in the coming months and years.

The audit report concludes with a list of recommendations that begins on page ten and includes "Exhibit A: Summary of Potential Benefit Resulting from Audit." OTR would like to address its actions on each of these recommendations following the format provided on page ten of the report. Most of the responses will be cites from the adopted Real Property Assessment Manual, Volume 1.

RECOMMENDATIONS:

We recommend that the Chief Financial Officer:

1. *Develop procedures to ensure that all owners of income producing property in the District of Columbia receive I & E forms as required by D.C. Code § 47-821(d)(1).*

Response: Procedures exist for this item as outlined in the attached Assessment Manual on page 282, Steps 1 through 8. These steps ensure that the selected properties are sent forms. In addition to the forms sent directly to the affected taxpayers, form-fillable PDF versions of the forms are also available on our website for the general public.

2. *Establish sufficient controls to fully account for all I & E Reports submitted by commercial property owners, allow for legitimate reasons concerning the need to submit a report, request for an extension of time to submit a report, and identify all property owners who did not submit a report or request an extension.*

Response: Procedures exist for this item as outlined in the attached Assessment Manual on page 283, Steps 9 through 13. These steps automate the tracking process to ensure all returned forms are accounted for and a penalty file can be accurately generated.

3. *Establish procedures to:*

- a. *Assess commercial property owners with the 10 percent penalty required by D.C. Code § 47-821(d)(1) for those who do not submit the required I & E Reports and to levy the fines.*

Response: Procedures exist for this item as outlined in the Assessment Manual on pages 283-284, Steps 1 through 6. These steps ensure that those taxpayers that should be subjected to the penalty are

EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S RESPONSE TO DRAFT REPORT

identified and reported to the Assessment Services Division for processing.

b. Document decisions not to levy penalties.

Response: Procedures exist for this item as outlined in the Assessment Manual on pages 284-285. The specific documentation is addressed at the bottom of page 284.

c. Review I & E Reports received at RPTA to detect those reports that are inaccurate and incomplete and penalize those commercial property owners who fail to file accurate and complete cost data.

Response: Procedures exist for this item as outlined in the Assessment Manual on page 284, Step 5. The assessor of record is the best person to determine the accuracy of the submitted information based on his/her familiarity with the property. When he/she find incomplete or inaccurate information, it is reported to the program coordination for inclusion on the penalty list.

4. Establish operating procedures that provide prompt service to commercial property owners requesting a waiver of the filing deadline. Include procedures to penalize commercial property owners who fail to comply with the terms of their requests for 30-day extensions and do not file an I & E Report, file late, or fail to provide accurate and complete cost data when a waiver is granted.

Response: Procedures exist for this item as outlined in the Assessment Manual on the center of page 283. The procedures allow for time extensions and the means to ensure that the terms of the extension are met. Otherwise, the taxpayer will be subject to the ten percent penalty.

5. Conduct frequent oversight reviews of the processes governing I & E Reports to ensure that:

a. Real Property Tax Administration officials are compliant with D.C. Code § 47-821.

Response: Upper management has provided oversight in the development of the assessment procedures to ensure that they complement and follow DC Code § 47-821 and the appropriate provisions of DC Municipal Regulations, Title 9 – 330 through 334. The program will be periodically audited by upper management to determine compliance with all applicable rules, regulations and procedures.

b. Commercial property owners are penalized for failing to file when required,

EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S RESPONSE TO DRAFT REPORT

filing late, or filing inaccurate or incomplete data.

Response: Upper management will require reporting by RPAD detailing the number of I&E forms mailed, forms returned, granted extensions, forms failed to be returned, forms returned after the deadline (both statutory and granted extension), incomplete and inaccurate submissions, waivers submitted, disposition of waivers, on an annual basis to ensure the program is being managed properly and in compliance with the established rules and procedures. Upper management will also audit the Assessment Services Division, the division directly charged with collecting the penalty to ensure compliance with the program requirements.

c. Requests for extensions are handled properly and expeditiously.


Response: Upper management will audit the program with attention to ensuring that the procedures outlined for filing extensions are properly followed. The audit will cover the extension filing deadline requirement, the granted deadline and whether or not the taxpayer complied with the extension terms and RPAD's responses to extensions.

d. Procedures and policies are promptly revised when oversight reviews disclose a need for change.

Response: As upper management identifies necessary revisions or enhancements to the procedures, the procedures and assessment manuals will expeditiously be updated.

If you have any further questions, please contact Mr. Richie McKeithen, Director, Real Property Tax Administration at (202) 442-6685.

Very truly yours,



Natwar M. Gandhi
Chief Financial Officer

cc Stephen M. Cordi, Deputy Chief Financial Officer, Office of Tax and Revenue
Richie McKeithen, Director, Real Property Tax Administration, Office of Tax and Revenue
Daniel M. Tangherlini, City Administrator and Deputy Mayor
Williams Singer, Chief of Budget Execution, Office of the City Administrator
Robert Andary, Executive Director, Office of Integrity and Oversight, OCFO

Attachment

**EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S
RESPONSE TO DRAFT REPORT**



**The Real Property Assessment
Division**

**Real Property
Assessment
Manual
Volume 1**

EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S RESPONSE TO DRAFT REPORT

Preface

The purpose of the manual is to present a collection of current procedures utilized by the various units of the Real Property Assessment Division (RPAD) of the DC Office of Tax and Revenue. The manual does not purport to be an all inclusive collection; however it is intended to represent the basic procedures utilized. The manual will be updated as needed and available on a shared drive, accessible to all appraisers, supervisors and managers. The manual will be maintained by the Standards and Services Unit with the assistance of the RPAD staff.

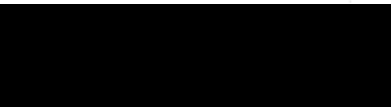
EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S RESPONSE TO DRAFT REPORT

Introduction

The Real Property Assessment Manual is written, edited and maintained by the Standards and Services Unit of the Real Property Assessment Division (RPAD). The manual is comprised of three volumes; each addresses different aspects of the assessment process in the District of Columbia. Volume 1 is an overview of the valuation procedures utilized by the Residential and Commercial property units; the assessment appeals procedures; the responsibilities of and procedures utilized by the Maps and Titles/Roll Units; the procedures utilized by the Standards and Services Unit; the business processes utilized by the Exemptions Unit; and the responsibilities of and the software utilized by the GIS Unit. Volume 2 is comprised of the District of Columbia laws and regulations which pertain to the assessment process. Volume 3 is a stock manual written by the vendor, Vision Appraisal Technologies, which generically describes the computer-assisted mass appraisal (CAMA) software, Vision, which RPAD utilizes.

The contents of the manuals are not static and will be updated as needed by the Standards and Services Unit. These manuals do not purport to contain all the procedures and processes utilized by RPAD; however, they are intended to serve as guidelines to assist in completing the annual valuation of real property in the District of Columbia.

The contents of these manuals have been approved by the Chief Appraiser of the RPAD and the Director of the Real Property Tax Administration (RPTA). As such, employees of the RPAD are authorized to use the information contained in these manual to complete their assigned duties.



Chief Appraiser, RPAD

Dec 30, 2008
Date

Richie McKeithen
Richie McKeithen
Director, RPTA

December 30, 2008
Date

EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S RESPONSE TO DRAFT REPORT

Income and Expense Filing Program

The Standards and Services Unit administers the income and expense filing program for the benefit of the Major Property and General Commercial Units within the Real Property Assessment Division. Information gleaned from the taxpayers through the program helps in valuations and the annual production of the Pertinent Data Book.

The following procedure is followed to ensure a proper mailing.

1. Supervisors of the Major Property and General Commercial units meet with Standards and Services to determine the types of properties, through use code selection, that are to receive the income and expense forms.
2. The information is transmitted to the director's staff for production of the mailing list pursuant to the selected use codes.
3. The prior year's forms are reviewed and edited to include any appropriate changes. The cover letter is updated.
4. Supplies are ordered to include paper, large carrier and return envelopes.
5. The final version of the forms are approved and converted into PDF documents for use on website.
6. The forms are printed using the mail-merge file produced in step

EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S RESPONSE TO DRAFT REPORT

7. The forms and other supplies are delivered to a selected mailing vendor.
8. The PDF versions are posted to the website.
9. The forms are received through the post office, customer service walk-in center and courier. Date stamp forms as they are received.
10. Scan bar-coded forms into tracking application and hand-key forms into tracking system.
11. Produce batches of forms of no more than fifty per batch.
12. Send batched forms to the scanning contractor for scanning and data capture.
13. Note forms that arrive after the deadline. These forms may be subject to late filing penalty in accordance with DCMR 332. (see below)
14. Receive data from scanning vendor and install images to Alchemy for the use of the appraisers.
15. Ensure the Alchemy product is available to the staff.
16. Provide the tabular extracted data to the major property supervisor for additional processing.

Taxpayers may request a 30 day extension to the April 1st filing deadline if the request is made for good cause and before the filing deadline. The DCFO, or his/her designee, determine the outcome of extension requests. If granted, the program coordinator logs the new deadline and follows up to ensure that the new filing deadline is met.

A penalty of 10% of the tax levied in the next tax year shall be charged under the following conditions:

- The taxpayer does not file before April 1st or does not file by the extended deadline, if granted. OR
- The appraiser determines that the filing is incomplete or inaccurate and notifies the program coordinator of same.

The procedure for assessing a penalty is as follows:

1. Allow several weeks after April 1st to ensure that mailed forms arrive to the program coordinator and forms received from the walk-in center have been delivered.
2. Using the logging application, prepare a preliminary list of those parcels that did not file timely.
3. Edit list for such things as government owned properties, dead lots, economic

EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S RESPONSE TO DRAFT REPORT

units, etc.

4. Prepare Excel spreadsheet containing the SSL of properties and any other pertinent data.
5. Append the list as necessary for properties that failed to file by an extended deadline or where the appraiser reported incomplete or inaccurate filings.
6. Forward the penalty list to ASD in advance of the billing cycle.

If a taxpayer is aggrieved by the penalty, he/she may request a waiver for penalty and interest. The request must be made in writing directed to the Director of the Real Property Tax Administration. The request must state the facts and circumstances to justify the failure to file and must be accompanied by supporting documents and an accurately completed income-expense form. The director may waive the penalty for reasonable cause after the request has been reviewed by a three member panel appointed by the Director.

The panel shall consider the taxpayer's reasons for failure to comply and review the supporting documents to determine their relevance and authenticity. The District of Columbia Municipal Regulations lists the following as guidelines for determining "reasonable cause" for failure to submit the income and expense form:

- a. Those situations in which the owner of the affected property is under a legal disability at the time due for filing. Persons under legal disability are those persons who, at the time due for submission of the forms, did not appreciate their obligation to file and were thus unable to care for their property by reason of advanced age, mental illness, mental defect or physical incapacity;
- b. Death of the record-owner of the affected property within six months prior to the date due for submission of the forms;
- c. Death of the agent who is retained by the taxpayer to prepare the forms, within six months prior to the date due for submission of the forms; and
- d. Any other situation which the Office, in its discretion, consider appropriate for the treatment, e.g., an I and E report is submitted for one commercial project which is composed of more than one SSL.

The panel's decision shall be rendered as soon as possible, though, no later than thirty days from the date the review was requested by the Director of the Real Property Tax Administration. The decision shall be a written document and shall specify the exact reason(s) for the approval or denial of the request for the waiver of penalties and interest. The panel's

**EXHIBIT C: OFFICE OF THE CHIEF FINANCIAL OFFICER'S
RESPONSE TO DRAFT REPORT**

written document shall then be submitted to the Director of the Real Property Tax Administration for final approval or denial. The taxpayer shall then be notified by first class mail of the final decision. The decision for the request for waiver cannot be appealed by the taxpayer.