New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Reporting of Billboard Income

New York City Department of Finance

Report 2011-N-2 August 2013

Executive Summary

Purpose

To determine whether income from properties with billboards was being accurately reported on the Real Property Income Expense Statements (RPIE) filed with the New York City Department of Finance (Finance). We also determined whether penalties were being assessed in accordance with the City Administrative Code for the failure to file an RPIE, filing late, or filing an inaccurate RPIE. Our audit period included RPIEs that were due September 1st of 2009 and 2010, and used to compute tax assessments for the 2010-11 and 2011-12 City tax years.

Background

Finance's Property Division (Division) is responsible to ensure that all real property in New York City (City) is valued fairly, accurately and consistently. To accomplish this mission, the Division, in part, relies on the accurate submission of an RPIE from the owners of income-producing property. Finance assessors are responsible for verifying income reported on RPIEs. Assessors also make observations during field visits, and correct reported income when they believe it is incorrect or omitted. Finance may also assess penalties for the failure to file an RPIE or for filing an inaccurate RPIE.

Key Findings

- Finance had limited documentation to support that assessors were verifying RPIE billboard income. In addition, Finance was not doing enough to identify and follow up on properties with billboards. Consequently, there is an increased risk that property owners are not reporting billboard income on the RPIE. Finance records show that 749 property owners reported an average billboard income of $83,565 for 2009 and 2010. We identified 235 properties with billboards that did not report any billboard income in these two years. If the average is applied to the 235 properties, we estimate that property owners did not report $19.9 million of billboard income on the RPIEs due on September 1, 2009 and September 1, 2010.
- Finance had not routinely obtained and reviewed a Department of Buildings listing of properties with billboards. We obtained such a listing showing 871 properties with billboards and noted that for 717 (82.3 percent), no income had been reported to Finance. Subsequently, Finance began using the listing and, as a result, identified $9 million of additional billboard income estimated to generate $500,000 of tax revenue in the first year and up to $2.9 million of tax revenue in the fifth year.
- The City Administrative Code has authorized Finance to issue penalties in each year since 1986 for non-filers or for the late or inaccurate filing of an RPIE. Finance only began using penalties in September 2010, which resulted in an additional $3.4 million charged on tax bills for the failure to file a RPIE. However, penalties are not being assessed for inaccurate or late RPIEs.

Key Recommendations

- Routinely obtain and examine the Buildings Department listing of properties to ensure Finance is aware of and follows up on any billboards that are not present on Finance's records.
- Require the assessor to document verification of billboard income reported by the property owner on the RPIE.

- Impose penalties authorized by the City Administrative Code for the late or inaccurate filings of RPIEs.

State of New York
Office of the State Comptroller

Division of State Government Accountability

August 15, 2013

David M. Frankel
Commissioner
New York City Department of Finance
One Centre Street
New York, NY 10007

Dear Commissioner Frankel:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. Fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the New York City Department of Finance entitled *Reporting of Billboard Income*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III, Section 33 of the General Municipal Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

Table of Contents

State Government Accountability Contact Information:
Audit Director: Carmen Maldonado
Phone: (212) 417-5200
Email: StateGovernmentAccountability@osc.state.ny.us
Address:
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Background

The mission of the New York City Department of Finance (Finance) Property Division (Division) is to ensure that all City properties are fairly and accurately valued for tax assessments. To help Finance fulfill this responsibility, owners of income-producing property must provide Finance with an annual Real Property Income and Expense (RPIE) statement. The RPIE identifies earned income from real estate, including properties with billboards. Finance uses RPIE information to help determine property tax assessments.

RPIEs are due on September 1st each year, and Finance uses them to help develop the property tax assessments for the City tax year that begins the following July 1st. In accordance with the City's Administrative Code, failure to file a complete and accurate RPIE may result in a penalty of up to three percent of a property's final actual assessed value in the first year of such failure, and up to five percent of the property's final actual assessed value for such failures in subsequent years. Finance procedures require assessors to verify all income reported by property owners. As warranted, assessors may estimate and add income to a property assessment based on their observations and verifications. Finance maintains a database, known as Vision, which includes historical property records, prior assessment calculations, dates that properties were visited for assessment purposes, details about the features of property and reported RPIE income. According to Finance records, 749 property owners reported billboard income totaling $107 million for City tax years 2010 and 2011.

The New York City Department of Buildings (Buildings Department) is responsible for enforcing the legal placement of billboards on properties throughout the City. The Buildings Department maintains a registry of property locations with known billboards within the view of an arterial highway or park. We obtained the listing and noted that it included 366 properties with "Registered Signs," as of September 1, 2011, and 505 properties where Buildings staff observed potentially unauthorized billboards during various points during the 2010-11 and/or 2011-12 property tax years.

Audit Findings and Recommendations

Billboard Income

Finance had limited documentation to support verification of billboard income reported by property owners on RPIEs. Also, Finance's records did not include certain properties with billboards. Consequently, Finance lacks adequate assurance that all billboard income is accurately reported on RPIEs, that property tax assessments are correctly calculated, and that the City obtains all of the tax revenue that it is entitled to. Finance records contained information for 749 property owners that reported total billboard income of $62,590,203 for 2009 and 2010. The average billboard income reported was $83,565. We determined that there were 235 properties with billboards that did not report income in either of the two years (2009 and 2010). These properties consist of 157 properties from the Buildings Department, 69 properties that reported billboard income in only one year, and nine properties that we determined had billboards based on visits. If the average billboard income of $83,565 reported by the 749 property owners is applied to the 235 properties with billboards that did not report income, we estimate that $19.9 million of billboard income was not reported in 2009 and 2010.

Crosschecking Records With Buildings

Finance was not obtaining the Buildings Department's listing of properties with billboards. Therefore, Finance missed an opportunity to help confirm that all known property owners with billboards were filing an RPIE. When we compared the 871 properties on the Buildings Department's listing to Finance's records, we found 717 properties (82.3 percent) where owners had not reported any income to Finance on RPIEs due September 1, 2009 and 2010. Subsequently, for 2012-13 property tax assessments, Finance used the Buildings Department's listing to verify the correct reporting of billboard income. As a result, Finance identified $9 million of additional billboard income that had been omitted from RPIEs. Finance estimated that this additional income will generate $500,000 of tax revenue in the first year of its use and up to $2.9 million of tax revenue in the fifth year of its use.

Verification of Billboard Income

Finance procedures require assessors to verify that all billboard income is accurately reported on RPIEs filed by property owners. However, our review of the assessment information shows there is a lack of documentation to support that assessors are, in fact, verifying billboard income. As a result, there is a lack of adequate assurance that property owners are not omitting or underreporting income that should be used to make assessment calculations that may increase property tax revenue for the City. The following observations support this conclusion:

- We examined a random sample of 112 properties for which property owners reported billboard income for either the 2010-11 or 2011-12 property tax years or for both years. For

109 of these properties, there was no documentation to support that an assessor verified reported billboard income. For the remaining three properties, assessors determined that reported billboard income was inaccurate. As a result, the assessors added income of $240 and $441 for two properties and reduced $63 of income for one property. In addition, we found that just 43 of the 112 properties reported billboard income in both years. The other 69 properties reported billboard income for one year.

- In some instances, billboard income reported by property owners varied significantly from one year to the next year. For example, one property owner reported $115,148 of billboard income that was used for the 2010-11 tax assessment and only $9,834 of billboard income that was used for the following year. In such situations, verification of income would be particularly important to ensure that there has been no intentional or unintentional error in reporting income from one year to the next. Nevertheless, assessors were not adhering to this practice.
- We independently observed 20 properties with billboards located throughout the City. In these instances, we also found no supporting assessor documentation of income verification. Our follow up showed that seven of the properties were exempt from reporting billboard income for the 2010-11 and 2011-12 tax assessment years, and one property was exempt from reporting for the 2011-12 tax assessment year. The latter property was not exempt for the 2010-11 tax assessment purposes, yet no income was reported for that year. The remaining 12 billboards were supposed to report income for both tax assessment years. However, nine of them did not report any income in these years.
- Using the listing we obtained from the Buildings Department, we identified 159 billboard properties for which, according to Finance records, billboard income could have been reported, but was not. For two of these properties, assessors did prepare computer adjustments to increase income by $58,560 and $20,000, respectively, for each property for use in the calculation of 2011-12 assessed values. There was no evidence that assessors verified the lack of reported income for the remaining 157 properties.

During our field work, we requested that Finance officials permit us to meet with the assessors to review any documentation or notes they may have regarding properties with billboards. However, Finance officials explained that it was not "operationally possible" to schedule these meetings, even after the close of the assessment valuation period. They also stated that, beginning with the 2012-13 property tax assessments, assessors are under instruction to examine yearly income fluctuations and to make necessary adjustments.

Physical Property Inspections

New York City Administrative Code requires that assessors examine all taxable properties at least once every three years. In addition, Finance expects that the observations that assessors make during their examinations, including the existence or elimination of billboards, be recorded in the Vision database.

We sampled 284 billboard property records from the Vision database and found that 147 properties with billboards had been visited in the last three years, 99 were last visited more than three years ago and 38 had no evidence of any assessor visits.

By not visiting properties in a timely manner and by not verifying the accuracy of information about property billboards, Finance is non compliant with the Administrative Code, and the risk is significantly increased that property owners may omit or underreport billboard income without detection.

Finance officials explained that assessors' personal notes may document dates of visits and observations that were used to assess properties. However, as previously explained, Finance did not permit us to interview assessors and to review any notes or documents prepared and retained by them to demonstrate their fulfillment of duties.

Recommendations

1. Routinely obtain and examine the Buildings Department listing of properties to ensure that Finance is aware of and follows up on any properties which are not present in Finance's records.

2. Document the required assessor verification of the property owner is reporting of billboard income on the RPIE.

3. Make sure that assessors verify the accuracy of billboard income reporting when income reported on RPIEs for a property vary significantly from year to year.

4. Ensure that assessors follow the requirements of the City Administrative Code and examine all taxable properties at least once every three years.

Penalties

Since 1986, Finance has been authorized by the City Administrative Code to assess penalties against property owners who did not file an RPIE, filed an inaccurate RPIE or filed late. However, Finance did not initiate penalties until September 1, 2010, when a new administrative team was put in place. As a result, 24 years passed without exercising authority to raise revenues through penalties for failure to comply with RPIE requirements.

Finance officials explained that, in October 2010, they sent 14,000 notices to property owners who did not meet the September 1st RPIE filing deadline. (Note: We were unable to determine how many of the properties involved billboard income.) The notices stated that any penalty could be "cured" if the property owners filed the required RPIE statement within 20 days. As a result, 2,400 property owners reportedly filed within the 20 day limit and avoided the penalty. There were about 8,400 property owners that did not file an RPIE and, therefore, were assessed penalties that added $3.4 million to their property tax bills. Finance officials advised us that they collected $2.1 million of the penalties.

We followed up on a sample of 96 property owners who failed to file an RPIE for the 2011-12 tax assessments and noted that no penalty had been imposed on 20 owners. In addition, for three property owners who were assessed a penalty for late filing, the amount of the penalty was subsequently credited to their tax bill without any documented explanation.

Moreover, we noted that Finance does not impose penalties for any late or inaccurate RPIEs. Accordingly, an opportunity for additional revenue is being missed.

Recommendation

5. Impose penalties authorized by the Administrative Code for the late or inaccurate filing of RPIEs. Document the basis for any decisions not to impose the required penalty or to subsequently credit a tax bill for the amount of an unpaid penalty.

Audit Scope and Methodology

We audited the New York City Department of Finance (Finance) to determine whether income from properties with billboards was being accurately reported on the RPIE. We also determined whether penalties were being assessed in accordance with the City Administrative Code.

To accomplish our objectives, we reviewed applicable laws and Finance's policies and procedures. We interviewed Finance officials, observed property assessment records, reviewed property tax bills and observed properties throughout the City. We selected a random sample of properties that had reported billboard income to Finance for the 2010-11 and/or 2011-12 assessment years to determine whether Finance had taken appropriate steps to verify income. We also reviewed property tax records and followed up on a sample of 20 properties independently observed by auditors on September 30, 2011 and January 5, 2012. In addition, we verified steps taken by Finance to verify income for 159 properties identified on a listing maintained by the New York City Department of Buildings. Finally, we confirmed actions taken by Finance to impose penalties on property owners who failed to file or who filed inaccurate RPIEs.

We conducted our 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.

As is our practice, we notified agency officials at the outset of the audit that we request a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. In the representation letter, agency officials assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. Agency officials further affirm that either the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors. However, officials at the New York City Mayor's Office of Operations have informed us that, as a matter of policy, mayoral agency officials do not provide representation letters in connection with our audits. As a result, we lack assurance from agency officials that all relevant information was provided to us during the audit.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutory mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under the generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article III, Section 33 of the General Municipal Law.

Reporting Requirements

A draft copy of this report was provided to Department of Finance officials for their review and comment. Their comments were considered in the preparation of this final report and are included in their entirety at the end of this report. In addition, we have included State Comptroller's Comments at the end of this report to address statements made in Finance's response.

Within 90 days of the final release of this report we request that the Commissioner of the Department of Finance report to the State Comptroller advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reason why.

Contributors to This Report

Carmen Maldonado, Audit Director
Robert Mehrhoff, Audit Manager
Erica Zawrotniak, Audit Supervisor
Elizabeth McNiff, Examiner-in-Charge
Carlitos Rodriguez, Staff Examiner
Beatrice St. Preux, Staff Auditor, Office of the City Comptroller

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Elliot Pagliaccio, Deputy Comptroller
518-473-3596, epagliaccio@osc.state.ny.us

Jerry Barber, Assistant Comptroller
518-473-0334, jbarber@osc.state.ny.us

Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments

NYC
Finance

David M. Frankel
Commissioner

Elizabeth D. Botwin
Deputy Commissioner
Administration & Planning
BotwinE@Finance.nyc.gov

1 Centre Street
Room 500
New York, NY 10007

+1 212 669 7605 tel
+1 212 669 2275 fax

June 6, 2013

Carmen Maldonado
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 Williams Street, 21st floor
New York, NY 10038

Re: Draft Report on Audit of Department of Finance – Reporting of Billboard Income Audit No: 2011-N-2

Dear Ms. Maldonado:

This letter serves as the Department of Finance ("DOF") response to the State Comptroller's Draft Report on the audit of DOF's administration of billboard income on the Real Property Income and Expense Statement ("RPIE"). The audit was focused specifically on DOF's inclusions and verification of billboard income as well as the assessment of penalties in connection with the 2008 and 2009 RPIE, due September 2009 and 2010 respectively.

I. Background

Owners of income-producing properties are required to file RPIEs so as to ensure that DOF has accurate and complete income and expense information to use in the assessment of these properties. This includes advertising signage or billboard income.

For the FY12/13 and FY13/14 valuation periods DOF initiated several programs to identify billboards and verify that income was reported. These initiatives, which include improved data collection and income guidelines, Department of Buildings information and statistical reporting, have been highly successful. During the audit period, however, DOF policy was to value billboards on the cost approach. Guidelines were developed and provided for assessor use in estimating cost value for properties where actual billboards were observed. The valuation period corresponding with RPIE 2010 (due September 2011) was the first year the assessors were given income guidelines and the new policy.

II. Audit Recommendations and DOF Responses

1. Routinely obtain and examine the Buildings Department listing of properties to ensure Finance is aware of and follows up on any billboards that are not present on Finance's records.

DOF agrees.

Each year since the 2010 RPIE filing (FY12/13 roll) DOF has requested permit data and arterial billboard lists from the New York City Department of Buildings ("DOB"). Conducting a thorough review of these data DOF now updates it arterial billboard records annually, communicates with DOB at least twice a year, and performs on-site inspections and reviews using Pictometry (aerial and oblique photography).

Additionally DOF has initiated a billboard survey project to be completed in the summer of 2013. This field work will include a targeted survey of selected city neighborhoods and/or commuter routes to identify billboards and advertising signs for which DOF has no record.

Furthermore, DOF began presenting the New York City Tax Commission (forum for independent administrative review) with individual cases of unreported billboard income. DOF will continue to work with the Tax Commission to coordinate efforts in identifying billboard income.

2. Require the assessor to document verification of billboard income reported by the property owner on the RPIE

   DOF partially agrees.

   We agree that DOF should ensure the list of billboard income filers is complete and well documented. Assessors are currently required to document changes made to income and expense items on the RPIE. Omission of billboard income can provide an unfair advantage to a property and for the past 2 years DOF has been adding back this income if not reported by the filer. DOF has even participated in a grand jury investigation into unreported billboard income and will continue to provide support as needed.

3. Make sure that assessors verify the accuracy of billboard income reporting when income reported on RPIEs for a property vary significantly from year to year.

   DOF partially agrees.

   The audit explains "there is a lack of adequate assurances that property owners are not omitting or underreporting income that should be used to make assessment calculations that may increase property tax revenue for the City." Although DOF requires that assessors ensure that billboard income is used to value known billboard locations, it is not required that assessors conduct line-item audits for all income items. The billboard income reported by filers can reflect arrangements between the property owner and several other parties. DOF does not have access to these leases and/or agreements. That being said DOF has developed billboard income guidelines and will continue to review parcels with suspicious or fraudulent filings, which includes coordination with Tax Commission. Statistical reports have been developed to identify year to year inconsistencies and filing for billboard income.

4. Ensure that assessors follow the requirements of the City Administrative Code and examine all taxable properties at least once every three years.

2

DOF partially agrees.

DOF agrees that maintaining accurate property records is essential to effective administration of the overall valuation program. DOF will continue to comply with the City Administrative Code to examine all taxable properties at least once every three years. DOF has been utilizing aerial and oblique photography and will integrate an electronic field sheet system to keep accurate records of site visits in one central location.

The audit claims there were billboard properties with no inspections or inspections which took place more than three years prior to the audit. This is misleading as not all visits were loaded into Vision (the current mass appraisal application) from the CLT system (the former legacy mass appraisal system) during conversion. DOF offered to meet with the auditors to walk through various screens in CLT to identify additional field visits. We also suggested that the auditors speak with an IT programmer regarding CLT information and conversion issues into Vision. The auditors declined our offer for a computer screen walk-through and our suggestion of a meeting with the IT programmer to explain conversion issues.

* Comment 1

5. Impose penalties authorized by the Administrative Code for the late or inaccurate filing of RPIEs. Document the basis for any decisions not to impose the required penalty or to subsequently credit a tax bill for the amount of an unpaid penalty.

DOF partially agrees.

DOF does impose penalties for those who file RPIEs after the cure period. Late filers were included in the group of property owners that were assessed non-compliance penalties. We verified that of the 20 cited properties for which penalties were not imposed, RPIEs were not required to be filed for 12 and were filed for 5 properties. We are still reviewing records for the remaining 3 properties.

Of the 3 properties cited for which the penalty assessed were subsequently credited, for one property, we determined that non-compliance penalties are not applicable since it was under substantial construction. The payment histories of the remaining two properties are also still under review.

The Administrative Code specifies penalties only for non-filers. DOF's rules provide that failure to file a substantially complete and accurate RPIE may be penalized but only when the inaccurate or incomplete filing is tantamount to a non-filing.

DOF has also put substantial resources into correcting RPIE's that omit income. In the 2010 and 2011 RPIE periods, when owners did not file billboard income and expense statements, assessors imputed guideline billboard income. The guidelines were developed by valuation staff to add or ascribe income for unreported advertising signage/billboards. Given this remedy, considering the restrictive statutory language and significant volume of filings, DOF believes ascribing income is a more effective approach to recapture any potential loss in revenue.

III. DOF's Response to General Statements in Audit Draft

Statements in the audit draft report suggest that DOF did not arrange meetings for the auditors with assessors; however, auditors accompanied a Manhattan assessor and other staff on a billboard inspection

3

*See State Comptroller's Comments, page 16.

on 11/16/11 and had an opportunity to sit with the assessor on 11/23/11 to review billboard income data in Vision. Auditors also went on a site visit with Staten Island assessors on 11/13/11. A request made in November, 2011, to meet with multiple assessors would have been unduly burdensome at a peak time in the valuation season. There were, however, 15 meetings or field visits with the State Comptroller's audit team during this audit cycle. Three meetings (or field visits) were held directly with assessors and many other meetings included assessor supervisors.

* Comment 2

Thank you for the opportunity to respond to your Draft Report. If you have any questions concerning our response to your audit findings, please let us know. Please contact Celia Carino, Director of Internal Audit at (212) 669-4458 or by email at CarinoC@finance.nyc.gov.

Sincerely,

Elizabeth Botwin

cc: Michael Hyman, Deputy Commissioner, Tax Policy and Planning
Beth Goldman, Deputy Commissioner, General Counsel
Timothy Sheares, Assistant Commissioner, Property Valuation
Celia Carino, Internal Audit Director
George Davis III, Mayor's Office of Operations

4

*See State Comptroller's Comments, page 16.

State Comptroller's Comments

1. Finance officials told us that the response refers to an offer made on April 4, 2012. Although we do not recall the offer to meet with an IT programmer regarding CLT conversion issues into Vision, such a meeting would not be a substitute for documentation supporting inspections done by the assessors. In addition, at the start of the audit, we were told that Vision contained all the information we needed. At a meeting with Finance officials, we were provided with documentation from the CLT system and screen shots from Vision to support inspections for a few of the properties but not all. We updated our audit results to include the additional inspections.
2. Our draft report is correct. Specifically required meetings were not arranged even after we agreed to wait until the field valuation period ended. These meetings would have provided the auditors an opportunity to obtain information regarding activities such as visits to the property and any notes that may not have been recorded in the computer system.