



AUDIT REPORT

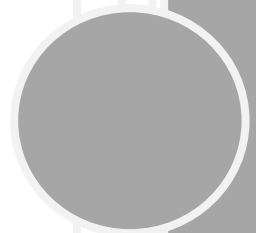
DALLAS COUNTY

TAX OFFICE'S PROPERTY TAX P& I AND REFUND AUDIT-FY2021 AND FY2022-

Darryl D. Thomas
Dallas County Auditor

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Tax Office's Property Tax P& I and Refund Audit-FY2021 and FY2022-

TABLE OF CONTENTS

MANAGEMENT LETTER	3
EXECUTIVE SUMMARY.....	4
INTRODUCTION	5
DETAILS	6

This report is intended for the information and use of the agency/department. While we have reviewed internal controls and financial reports, this review will not necessarily disclose all matters of a material weakness. It is the responsibility of the department to establish and maintain effective internal control over compliance with the requirements of laws, regulations, and contracts applicable to the department



DALLAS COUNTY
COUNTY AUDITOR

MANAGEMENT LETTER

Honorable John R. Ames, CTA
Tax Assessor - Collector
Dallas, Texas

Attached is the County Auditor's final report entitled "**Tax Office's Property Tax P& I and Refund Audit-FY2021 and FY2022.**" Report. In order to reduce paper usage, a hard copy will not be sent through in house mail except to the auditee.

In you prefer that released reports be emailed to a different (or additional) recipient, please inform me of the name and the change will be made.

Respectfully,

Darryl D. Thomas

Darryl D. Thomas
County Auditor

EXECUTIVE SUMMARY

A review of financial records and a walk-through of the Tax Office's operational processes related to the assessment/collection of property tax penalty and interest were performed for the period October 1, 2020, through March 31, 2022. The Tax Assessor-Collector collected and disbursed ad valorem taxes for 90 jurisdictions in FY2022 and for 85 jurisdictions in FY2021. Approximately \$6.6 and \$6.5 billion in receipts were collected and processed by the Tax Office during the fiscal years ending September 30, 2022, and September 30, 2021, respectively. **Priority areas of risk that need consideration by management are:**

Summary of Significant Observations:

• **Retention of Supporting Documentation:** A sample review payments processed between October 2020 thru March 2022 identified 126 of 250 (50%) with exception as follows:

- Ninety-one payments were backdated including 36 payments that were backdated by more than a month.
- Twenty- three replacement payments for returned or lost checks were noted in the ACT system indicating that the Tax Office would honor the original postmark date, but copies of the postmarked envelopes were not retained.
- Five payments were found checks that were lost/misplaced by the Tax Office but no support was retained.
- Two payments on which the delinquency dates were changed but no clear trail exist to determine a reason for the change
- Two payments related to quarter payment agreements not split correctly in ACT.
- Two payments were backdated using the wrong year.
- One tax sale payment where the posted allocation differs from the Tax Sale document.

Repeat observations from Previous Audits:

Backdated Payments/ Retention of Supporting Documentation: Penalties and Interest were not collected due to the backdating of payments without retention of supporting documents

Only those weaknesses which have come to our attention as a result of the audit have been reported. It is the responsibility of the department management to establish and maintain effective internal control over compliance with the requirement of laws, regulations, and contracts applicable to the department.

INTRODUCTION

Dallas County Auditor's Office mission is to provide responsible, progressive leadership by accomplishing the following:

- Comply with applicable laws and regulations
- Safeguard and monitor the assets of the County utilizing sound fiscal policies
- Assess risk and establish and administer adequate internal controls
- Accurately record and report financial transactions of the County
- Ensure accurate and timely processing of amounts due to County employees and vendors
- Set an example of honesty, fairness and professionalism for Dallas County government
- Provide services with integrity
- Work in partnership with all departments to resolve all issues of the County
- Strive to utilize the latest efficient and effective technology in the performance of tasks
- Provide technical support and training in the development, implementation, and maintenance of information systems
- Hold ourselves accountable to the citizens of the County at all times
- Be responsive to the elected officials and department heads of Dallas County

The objectives of this audit are to: 1. Ensure compliance with statutory requirements 2. Evaluate internal controls 3. Verification of accuracy and completeness of reporting 4. Review controls over safeguarding of assets

This audit covered the period of October 1, 2020 through March 31, 2022.

The audit procedures will include interviews with key process owners, observation of transactions processing, data analysis and sample testing of transactions. The main system used will also be reviewed and incorporated as part of the testing of transactions.

**DETAILS****Retention of Supporting Documentation**

According to Tax Code Sec. 31.02.(a) taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed. Tax Code Sec. 1.08. states when a property owner is required by this title to make a payment by a specified due date, the property owner's action is timely if it is properly addressed with postage or handling charges prepaid and: (1) it is sent by regular first-class mail and bears a post office cancellation mark of a date earlier than or on the specified due date and within the specified period; (2) it is sent by common or contract carrier and bears a receipt mark indicating a date earlier than or on the specified due date and within the specified period; or (3) it is sent by regular first-class mail or common or contract carrier and the property owner furnishes satisfactory proof that it was deposited in the mail or with the common or contract carrier on or before the specified due date and within the specified period. The only circumstances warranting the waiver of penalties and interest are established in Tax Code Sec.33.011 and the only criteria for allowing the postponement of the delinquency date is established in Tax Code Sec. 31.04. Further, Local Retention Schedule GR1075-40 establishes a one-year retention period for postal and delivery service records and TX3000-12 establishes a two-year retention period for all tax correspondence. Pursuant to Dallas County Code Sec. 98-188, when the legal retention period has expired and if the records to be destroyed are in the department, the department will still need to complete the destruction form, indicate if the records have been audited by the audit department, and submit it to the records management officer for approval.

A sample review of 250 payments processed between October 2020 and March 2022 identified 126 payments with variances from anticipated penalties and interest without retention of sufficient supporting documentation. Ninety-one payments were backdated including 36 payments that were backdated by more than a month. As a result, penalties and interest were not assessed. Twenty- three replacement payments for returned or lost checks were noted in the ACT system indicating that the Tax Office would honor the original postmark date, but copies of the postmarked envelopes were not retained. Additionally, five payments were found checks that were lost/misplaced by the Tax Office but no support was attached to accounts affected, two payments on which the delinquency dates were changed but no clear trail exist to determine a reason for the change, two payments related to quarter payment agreements not split correctly in ACT, two payments were backdated using the wrong year, and one tax sale payment where the posted allocation differs from the Tax Sale document.

Additionally, the majority of Tax Office staff have system rights that grant the ability to to backdate payments which affects the total penalties and interest collected. It is not a Tax Office practice to upload supporting documentation to ACT for transactions that may affect penalty and interest collections. Penalty and interest collections are largely affected by the backdating of payments but the Tax Office does not upload postmarked envelopes to ACT and only retains the hard copy for a period of



6 months mainly due to the high volume of payments processed. It is also not the Tax Office practice to require staff to upload sufficient supporting documentation such as the postmarked envelope to ACT for the comparable smaller volume of payments that may be considered red flags or may be uncommon such as when staff manually backdate payments by several months, when dealing with replacement payments where the original payment postmark is being honored, when posting found checks that were lost/misplaced in the Tax Office, or when postponing the delinquency date in ACT to give taxpayers additional time to pay. Inconsistent adherence to local retention schedules pertaining to postal service records and tax correspondence combined with a lack of segregated system rights related to backdating, results in an inability to determine if the statutory requirement for waiver of penalty and interest was met. As a result, there was \$1,225,957 in questioned penalties and \$380,393 in questioned interest that was not collected and for which the determination could not be made as to whether or not any portion of it is a loss of revenue for Dallas County and other tax entities.

Recommendation

Retention of Supporting Documentation
Management should:

- Retain all postmarked envelopes and supporting documentation used by staff to determine when a payment is backdated in accordance with Tax Code Sec.1.08.
- Ensure all documentation is retained within the time period established in the Local Retention Schedule.
- Scan and upload the documentation to the account in ACT, mainly when handling exception mail and replacement payments where the original attempt to pay is being honored or when backdating payments by several months.
- In order to minimize errors, the Tax Office should maximize the usage of the Remittance Processing System during peak season. This system is also capable of scanning the Postmark envelope along with payment record for audit trail.
- Ensure written procedures are up to date and readily available when requested.

Management Action Plan

- The Dallas County Tax Office collects vital revenue for over 90 jurisdictions each year, and is proud to provide this vital revenue stream accurately and timely, which maintaining historically (over 98.90%) collection rates each year. We point out that during the audit period covered in this audit (Oct 2020 – Mar 2022), the Tax Office moved the Downtown Branch and Administration from Renaissance Tower to the Records Building, with minimal loss of customer service or downtime. The Tax Office continues to provide face to face customer service and interaction to up to 20,000 customers weekly
- The Tax Office processes payments as required by the Tax Code and backdates property tax receipts only where appropriate, consistent with controlling statutes, including Tax Code Section



1.08. Circumstances for backdating include review of postmarks and are dictated by the specific circumstances of each affected transaction. Routinely, there is an enormous seasonal in-flow of property tax payments received just at, or right before the statutory deadlines for making timely payments under state law. In the first week of February each year, between 50,000 – 75,000 pieces of mail are received which must be reviewed for January 31st postmarks. These envelopes are kept by the Property Tax Division for approximately six months to ensure the proper postmark dates were used. Directly related to this mass in-flow of last-minute mail delivered from the postal service, it is not uncommon that mail containing property tax payments are log- jammed, misdirected and otherwise delivered untimely by the USPS. When timely mailing can be confirmed by postmark, the taxpayer receives the benefit of backdating. Beyond the postal delivery challenges, the sheer mechanics of processing such as large volume of incoming payments by mail in a compressed time frame, utilizing limited resources, also necessitates other backdating in compliance with statutes and with managerial review per Tax Office procedures.

- Tax Office staff are not authorized, nor allowed, to backdate receipts or payments without just cause. In the instances where penalty and interest is not collected for reasons other than a postmark, documentation from the taxpayer, mortgage company, agent, bank, or law firm is attached and noted in the account, after manager approval and review.
- Tax Office staff are trained to review each envelope for the appropriate postmark and to apply the payment as of the postmark date. It is not a requirement that they scan in each envelope for every payment that is posted after the first of the month. Due to the high number of payments that are received at the end of each month, especially in December, January, and February, it can take up to 7 working days to post all of the mail that is delivered by the post office.
- Envelopes are kept for 6 months and are deemed to be of administrative value. Detailed notes are put into the ACT system when variances to the standard processes are taken, and appropriate managerial oversight and approval is required
- The Texas Property Tax Code requires that a payment be accepted as of the postmark date. Tax Office business practices require that both the postmark (receipt) date, and the processed (deposit) date are reflected in the ACT system, and the Tax Office will continue to follow Property Tax Code Statutes and Tax Office procedures to document the over one million payments received each year.
- Of the 91 payments which were reviewed, Tax Office research has determined: a. 55 accounts were posted within 7 working days of the end of the month. This is the acceptable business practice of the Tax Office. Notes were entered for most of the accounts when necessary, which explained why the payment was posted with the receipt date: i. 3 accounts were paid by a Tax Lien Transfer company, and were accompanied by legal documents which delayed the posting, but which are noted on the account ii. 1 account (TAD10636471) paid P&I of \$25,731.70 as billed iii. 3 accounts had the delinquency dates extended by CAD supplements, and were paid timely iv. 2 accounts had invalid remit sequence numbers and could not be researched v. Numerous accounts were posted with attorney or other legal instructions (Sheriff Sales, bankruptcy, lawsuit payoff) and the notes are on the accounts.



- 36 accounts were posted more than 5 days after the end of the month, however the majority have notes on the accounts indicating the reason for the acceptance of the payment, including i. Legal instructions from the delinquent tax attorney firm ii. Clerical error letter from CAD iii. Lost or mutilated payment which the taxpayer replaced within 20 days iv. Check which was delivered by post office after the end of the month v. SIT disbursement misdirected to another government entity vi. Instructions from the Sheriff's Dept or law firm with posting instructions.
- As previously stated, copies of postmarked envelopes are not required to be uploaded into the system in order to honor the original postmark date. Notes are placed on the account, and if the taxpayer remits the payment within 20 days of notification, the original payment is honored. i. 2 accounts were in payment of current taxes only – no P&I was due.
- With over 1 million checks received annually by the Tax Office, every effort is made to process payments with no errors, however the Tax Office has 280+ humans working on-site every day, serving over 20,000 customers weekly. Envelopes are retained for a period of 6 months, and before they are disposed, they are reviewed by staff, who occasionally find checks. Checks are also infrequently found in drop boxes, desks, mail buckets, cash drawers, and other office locations. When the checks are found, they are processed and the original date is honored. Most often, there is no supporting documentation to upload, but notes are placed in the ACT system. b. 5 checks represent .000005% of the 1,000,000+ checks processed by the Dallas County Tax Office each year.
- DCAD clerical error letter & LGBS letter changed the delinquency date on one account. Taxpayer paid all taxes, and had zero balance when DCAD sent a DTR supplement which changed the delinquency date. Taxes were paid correctly b. Title company paid 2005-2020 taxes. All delinquency dates were standard except 2005-06. This is believed to be a conversion issue. Taxes were paid correctly per judgment.
- The account was eligible for QP, but never set up on the installment plan. Title company paid 2011- 2020 taxes in full. Taxes were paid correctly. b. This payment paid Q3 & Q4, and was an on-line payment of \$40,000. The account did not have a Q2 receivable because the prior payment in January had paid all of the Q2 and part of Q3. This is not an error in the ACT system, and the payments were applied correctly.
- 1 payment was a bankruptcy payment which should have been posted as 2/22, not 2/21. This was a manual data entry error. b. 1 payment was entered with a receipt date of 1/21, instead of 1/22. This was a representative data entry error.
- The check received from the City of Dallas had a .45 cents difference from the posting instructions. The City was contacted and confirmed the posting instructions. A revised posting instruction document was received from the City and has been uploaded to the ACT. The account was paid correctly.
- Procedures will continue to be reviewed, and training conducted with staff, to ensure all payments are posted timely and accurately, while complying with the Texas Property Tax Code, and that the \$7.3 Billion annually which is collected by Tax Office is promptly remitted to Dallas County and the 90+ jurisdictions who have entrusted the Dallas County Tax Office to provide collection services for them.



Auditors Response

- We want to thank Tax Office officials for providing a detailed and comprehensive overview of Tax Department operations. However, the lengthy comments that were provided do not serve as an Action Plan for mitigating this issue going forward. In fact, Tax Office officials did not provide evidence for items in disagreement. Preliminary findings were given to the Tax Office months before the issuance of this report along with a request for supporting documentation but to no avail.

Overpayment (OV) Refunds

Tax Code Sec. 31.11 establishes criteria for refunding erroneous or overpaid taxes to the taxpayer (the individual who made the payment). Tax Code Sec. 31.111 establishes that a refund shall be made as soon as practicable after the collector discovers that a person erred in making a payment of taxes because the identical taxes were paid by another person, with the refund being issued to the person who erred in making the payment. Dallas County Code Sec.70-543(c) establishes that departments will conduct reasonable search to ensure that the customer does not have any outstanding debts due to the county and certify that a refund is due to the customer.

A sample review of 180 overpayment refunds identified six overpayment refunds totaling \$3,423.77 were made payable to the taxpayer (individual who paid the tax), but were either mailed to the property owner's address or to an address that could not be linked to the taxpayer. Per Tax Office practice, when a taxpayer address is not provided the refund will be mailed to the property owner's address or other address on file. Five overpayment refunds totaling \$2,645.06 were made payable to the property owner instead of the taxpayer and two overpayment refunds were issued when the taxpayer owed delinquent taxes on other accounts.

In order to maintain a complete audit trail, transfers should be performed in ACT as needed to reflect the correct payment amount was refunded. According to procedure PT-REF003-14 last revised by the Tax Office on August 1, 2017, when Overpayment Refunds (8001) are processed, the representative should verify the information matches the check image (of the payment) and if needed change the recipient information in the system. **Note: Updated Tax Office procedures were requested in the Audit Engagement Letter but were not provided.** Taxpayer information is not consistently updated and usually defaulted to the property owner even in cases when the taxpayer and the property owner are not the same individual. As a result, Dallas County could be held liable for any overpayment refunds not received by the taxpayer and not issued in accordance with Tax Code Sec. 31.11 and 31.111.



Recommendation

Overpayment (OV) Refunds
Management should:

- Ensure Tax Office procedures are updated and consistently followed by staff to reflect compliance with Tax Code Sec. 31.11 and 31.111.
- Ensure documentation, such as written taxpayer requests for refunds to be issued to a different address, is uploaded to the ACT system to support who refunds are sent to (if someone other than the taxpayer) and addresses where the payments are to be mailed.
- Ensure staff maintain a proper audit trail throughout the refund process. For example, if the erred duplicate payment was mistakenly applied to the levy then transfers should be performed in ACT to switch the payments in the system so the correct payment is reflected as the overpayment.
- Establish consistent practices are applied when refunding to multiple taxpayers including when to use an ampersand.

Management Action Plan

- The Tax Office follows Property Tax Codes 31.11, 31.111, 26.15, and Sec 42.43, in preparing and mailing the over 18,000 Overpayment/Erroneous and Adjustment Refund checks processed annually by the Tax Office.
- It is the procedure of the Tax Office that Auditor review and Commissioners Court approvals are required for erroneous and overpayment refunds (Sec 31.11). However neither Auditor review nor Commissioner Court approval are required for refunds arising due to a duplicate payment (Sec 31.111), correction of the tax roll (Sec 26.15) or final determination of an appeal (Sec 42.43).
- The Tax Office complies with Sec 31.11 (a) in processing, reviewing and approving refund checks and utilizes the Refund Wizard and TaxLedge systems to manage the workflow and processing of all refunds. These systems allow refunds to be batched, researched, managed, and approved efficiently.
- Staff is given training and appropriate permissions to determine Refund Recipient Guidelines, depending upon whether the refund is an Agreed Judgment, Overpayment, Erroneous, or Duplicate refund. All refunds are researched to determine if the refund recipient owes delinquent taxes on other accounts. Refunds are mailed to the address on the Refund Application, Designation Form, Address on Check copy, or address of record. □ Documentation is uploaded to the account if available.
- Procedures will continue to be reviewed, and training conducted with staff, to ensure all refunds are processed timely and accurately, and that the over \$73 million annually which is overpaid to the Tax Office or determined to be legally refundable, and which is due to Dallas County citizens, is promptly returned to them.
- Of the 180 refunds reviewed by the Auditor's Office: a. 13 refunds were identified as having issues with the payor, address, or delinquent taxes. Research has indicated 9 refunds were processed



correctly, and the remaining 4 refunds will be addressed through training and research: b. 6 overpayment refunds mailed to property owner's address. These refunds were mailed to the best address on file and were processed in accordance with Tax Office procedure. c. 5 refunds issued to property owner instead of taxpayer. 2 refunds were correctly issued to taxpayer. 3 refunds were issued to property owner, and will be researched to determine if a correction can be made. d. 2 refunds issued to taxpayer when delinquent taxes were due. Only one account had delinquent taxes due in the amount of \$12.92. The other account was not an exact ownership match and did not qualify under Sec 31.11 (b).

Auditors Response

- We want to thank Tax Office officials for providing a detailed and comprehensive overview of Tax Department operations. However, the lengthy comments that were provided do not serve as an Action Plan for mitigating this issue going forward. In fact, Tax Office officials did not provide evidence for items in disagreement. Preliminary findings were given to the Tax Office months before the issuance of this report along with a request for supporting documentation but to no avail.

Supplement (RF) Refunds

Pursuant to Tax Code Sec.42.43 a refund resulting from an appeal shall be sent to the property owner unless the final judgement in an appeal designates to whom and where a refund is to be sent. The property owner can also complete Comptroller Form 50-765 to designate to whom and where the refund is to be sent. The entire form must be completed and submitted to the Tax Office separately for each appeal. Pursuant to Tax Code Sec 11.431 and 11.439, the collector shall refund Late Application of Exemption refunds to the person who was the owner of the property on the date the tax was paid. Pursuant to Tax Code Sec 26.15 Correction of Tax Roll, if a correction that decreases the tax liability of a property owner is made after the owner has paid the tax, the taxing unit shall refund to the property owner who paid the tax the difference between the tax paid and tax legally due.

A sample review of 90 type "RF" refunds identified 16 agreed judgement refunds were sent to the plaintiff's attorney without completion/retention of the Designation of Tax Refund Form 50-765, six late application for exemption refunds were issued to someone other than the owner at the time the taxes were paid, and six tax roll correction refunds were issued to someone other than the owner who paid the tax. In total, \$511,009 in refunds were issued to an individual/entity other than the individual/entity indicated in the Tax Code. Additionally, the Tax Office did not upload all designation for tax refund forms to the property accounts in ACT and when requested, the forms were not provided. Differences in determination of the type of refund issued also exist. The Tax Office considers some refunds related to late applications for exemption as tax roll correction refunds. As a result, Dallas County could be held liable for any overpayment refunds not sent in accordance with the Tax Code.



Recommendation

Supplement (RF) Refunds

- Management should ensure Designation Forms are properly completed by the property owner and retained by the Tax Office when issuing a refund to someone other than the owner. Designation forms can be scanned and uploaded to the account in ACT. When designated a refund be sent to the Attorney, it is always preferable for the designation form to be completed by the property owner instead of the attorney themselves.
- Management should ensure there is clarity when staff are required to interpret the Tax Code. Guides could help them when making important determinations such as whether a refund qualifies as a late application of an exemption refund or a correction of the tax roll refund.

Management Action Plan

- The Tax Office follows Property Tax Codes 31.11, 31.111, 26.15, and Sec 42.43, in preparing and mailing the over 18,000 Overpayment/Erroneous and Adjustment Refund checks processed annually by the Tax Office.
- It is the procedure of the Tax Office that Auditor review and Commissioners Court approvals are required for erroneous and overpayment refunds (Sec 31.11). However, neither Auditor review nor Commissioner Court approval are required for refunds arising due to a duplicate payment (Sec 31.111), correction of the tax roll (Sec 26.15) or final determination of an appeal (Sec 42.43).
- The Tax Office complies with Sec 31.11 (a) in processing, reviewing and approving refund checks and utilizes the Refund Wizard and TaxLedge systems to manage the workflow and processing of all refunds. These systems allow refunds to be batched, researched, managed, and approved efficiently.
- Staff is given training and appropriate permissions to determine Refund Recipient Guidelines, depending upon whether the refund is an Agreed Judgment, Overpayment, Erroneous, or Duplicate refund. All refunds are researched to determine if the refund recipient owes delinquent taxes on other accounts. Refunds are mailed to the address on the Refund Application, Designation Form, Address on Check copy, or address of record.
- Documentation is uploaded to the account if available, including Agreed Judgment forms and Designated Agent forms.
- Procedures will continue to be reviewed, and training conducted with staff, to ensure all refunds are processed timely and accurately, and that the over \$73 million annually which is overpaid to the Tax Office or determined to be legally refundable, and which is due to Dallas County citizens, is promptly returned to them.
- Of the 90 refunds reviewed by the Auditor's Office, a. 16 refunds were identified as being sent to the plaintiff's attorneys without a Designated Agent form. It has been the Dallas County Tax Office practice to mail the Agreed Judgment refund checks in care of the plaintiff's attorneys upon request. In 2023, the Tax Office requested Dallas CAD modify the Agreed Judgment language to include the following language: i. In the event that a refund is due and owing to the



Plaintiff/Property Owner arising out of the resolution of this matter, Plaintiff/Property Owner requests that the refund be made payable to: _____, in the care of _____ and mailed/delivered to the following mailing address. Including the language above in the Court Order will alleviate the Auditor's concern and the need for a Designated Agent form. b. 6 late exemption applications refunds were sent to someone other than the owner at the time the taxes were paid. If the property ownership has changed, and the research shows the exemption is due to the new owner, the refund is sent the new owner, per the "Bundle of Sticks" legal opinion below. Additional training and legal direction continue to be provided to Tax Office staff. c. 6 tax roll corrections were issued to someone other than the owner who paid the tax. Research shows these refunds were correctly mailed to the owner of record at the time of the refund.

- The Dallas County Tax Office has relied on legal advice from our delinquent law firm, and has received a legal opinion concerning the transfer of property rights, deemed the "Bundle of Sticks". In this legal advice, the law firm has expressed their opinion that the Dallas County Tax Office "has discretion to (1) pay current delinquent taxes on the same tax account relating to the refund/overpayment (even if the ownership of the property has changed)".

Auditors Response

- We want to thank Tax Office officials for providing a detailed and comprehensive overview of Tax Department operations. However, the lengthy comments that were provided do not serve as an Action Plan for mitigating this issue going forward. In fact, Tax Office officials did not provide evidence for items in disagreement. Preliminary findings were given to the Tax Office months before the issuance of this report along with a request for supporting documentation but to no avail.

cc: Darryl Martin, Commissioners Court Administrator