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To The Bourbon County Commissioners
Bourbon County Courthouse

Fort Scott, Kansas 66701

Public concerns have been expressed over the treatment of delinquent taxes in Bourbon County. Treatment of people on the "partial payment plan" have received special attention. Accordingly, the commissioners asked our firm to perform additional audit procedures in the following areas:

- Verify the proper publication of delinquent taxes. Specifically, the published list should include all delinquent taxpayers including those on the partial payment plan.
- Summarize delinquent taxes each year to determine how much in delinquent taxes are not being paid.
- Verify the process for tax sales and which properties are not included in the tax sales. Specifically determine if taxpayers on the partial payment plan are omitted from tax sales.
- Verify whether proper interest charges are applied to delinquent taxpayers including those on the partial payment plan.

BACKGROUND

The collection of property taxes is specified in KSA 79-2001 et sec. Properties with uncollected real estate taxes are required to be published three consecutive weeks in August of each year. The County Treasurer is allowed by statute to accept partial payment of delinquent real estate taxes in accordance with guidelines established by the County Treasurer. Failure to perform any of the duties in relation to collection of taxes may result in fines or removal from office.

The County Treasurer has established a partial payment plan in Bourbon County. Prior to January 1, 2010, the County used the Infinitec accounting software to keep track of the basic fund accounting and to keep track of all property taxes in the County. Starting in March of 2010, the County switched the fund accounting to new CIC software. In November of 2010, the accounting for property taxes was switched to CIC as well. However, the CIC software does not have a program specifically designed for partial payment plans. The treasurer continued to use the old software to account for people on the partial payment plans until the terms of the plan were completed and/or the delinquent taxes and penalties (interest) were paid, at which time the collection was recorded in the new CIC accounting system.

To set up a partial payment plan in the old Infnitec system, the taxpayer must sign a "tax escrow agreement." This agreement, signed by the taxpayer and Treasurer, specifies the terms of the plan. The taxpayer agrees to make regular, periodic payments to cover the tax and estimated interest due. As stated in the agreement, failure to make scheduled payments may result in termination of the agreement and disqualify the taxpayer for future participation in partial payment plans.

When a new partial payment plan is established, the Treasurer determines the amount of tax due, accrued interest due up to the date of the agreement, and the payment term (e.g. 12 months). The old Infnitec software then computes the monthly payment amount necessary to pay the taxes and interest thereon.

PROCEDURES AND RESULTS OF PROCEDURES

Verification of Proper Publication of Delinquent Taxes

Before we began our work, the Treasurer readily admitted that the list of delinquent real estate taxes published in August did not include properties on the partial payment plan. This was due to a misunderstanding of the law according to the Treasurer. Due to the public complaints about this error, the Treasurer included delinquent real estate taxes for people on the partial payment plan with the third publication of the original delinquent taxes. Two additional publications were made of the delinquent taxes on the partial payment plan.

We obtained from the Treasurer a list of people on the partial payment plan. This list was manually prepared on an Excel spreadsheet.

Several days after we began our procedures, we received a computerized list of people on the partial payment plan.

We summarized the partial payment plans in place as of the first day of our fieldwork.

We compared our list of taxpayers on the plan to the following:

- original and additional list of delinquent 2010 real estate taxes published
- list of people on the partial payment plan according to the manual list prepared by the Treasurer and the computerized list.

Results of Procedures

1. Taxpayers on the partial payment plan include a few people with personal property taxes and 16/20 truck motor vehicle taxes due. These taxpayers were not on the additional published list of delinquent taxes since the published list only includes delinquent real estate taxes.
2. One taxpayer on the plan was included in the original list of delinquent taxes.
3. One taxpayer on the plan was omitted from both published lists of delinquent taxes.
4. Twelve taxpayers included on the second list of delinquent real estate taxes did not have partial payment plans on file. These taxpayers had agreements in prior years. These taxpayers included the Treasurer and three relatives.
5. The manual list of taxpayers on the partial payment plan omitted seven taxpayers on the plan.
6. The manual list of taxpayers on the partial payment plan only included the name and amount of taxes due for one tax year. For example, taxpayer "A" showed 2007 taxes due on the Treasurer's manual list, but the manual list did not show that taxpayer A also owed 2006 taxes that were on a partial payment plan.

Summary of Delinquent Taxes by Year

A computerized list of delinquent taxes by year of tax is readily available from the new CIC accounting software. Accordingly, we did not spend significant time in this area.

Verify the Process for Tax Sales

We were told by the Treasurer that delinquent taxpayers are held out of a tax sale only if there are valid legal reasons as determined by the Treasurer and/or the attorney in charge of the tax sale. A taxpayer on the partial payment plan would not be held out of the tax sale solely because they were on a payment plan.

Verification of Proper Interest Charges on Delinquent Taxes

Background Information

Taxpayers on the partial payment plan make periodic payments that were placed in a specific escrow fund. The transactions in this fund were accounted for in the new CIC accounting software. Once the required payments are made, taxes and interest charges are recorded as paid in the new accounting system. The interest charges according to the new CIC accounting software would not agree with interest collected according to the old Infnitec system since the new system does not reflect the partial payments that were made. The CIC system only records taxes as paid when the partial payment plan was completed. Thus, whenever the taxes on a completed partial payment plan were recorded in the new accounting system, the interest due according to the new system was adjusted to agree with the interest actually collected according to the old system.

In the perfect scenario, a properly established and operated partial payment plan would result in all payments made exactly on the due date as stated in the plan. After the last payment is received, the collected taxes and interest would be transferred from the escrow fund to the delinquent real estate collections fund. The delinquent taxes would then be recorded as collected in the new CIC accounting system. Again, it should be noted that in this scenario, the interest due according to the new CIC software should always be more than the interest calculated under the partial payment plan since interest due is reduced whenever partial payments are received but the new accounting system does not show any payments received until the plan is completed.

Procedures Performed

We obtained copies of the partial payment plans for all taxpayers currently in the plan, including amortization schedules of taxes and interest due.

We verified the interest rate used in the partial payment plan agreements.

We traced all accounting activity in the escrow fund according to the new CIC accounting software to the partial payment plan activity according to the old Infnitec accounting system, and verified that all activity for 2011 has been recorded. We also verified cash in the "partial payment escrow fund" according to the County's accounting records agreed with the cash that should be in the fund according to the partial payment plans currently in place.

We verified the proper collection of interest for partial payment plans completed and posted to the escrow fund from January 1, 2011 to August 26, 2011. That is, we calculated the amount of interest that should have been collected and compared this to the amounts that were recorded as collected in the new CIC accounting system.

Results of Procedures

1. General comments should be made as to the management of the partial payment plans. The Kansas statutes allow the Treasurer to formulate the policies for the Plans. There is no written policy for Bourbon County as to who is eligible, and what forms should be used. The availability of the plan was not known to many taxpayers and was not publicized within the office. Taxpayers were informed if they asked about the availability of a partial payment plan. However, one could question the judgment used on why certain taxpayers were placed on a partial payment plan. These "eligibility" issues are as follows:

- Numerous taxpayers are repeatedly on payment plans for many tax years.
- The Treasurer and several relatives are repeatedly participants in the partial payment plan for numerous years.
- There are repeat taxpayers on the plan even though they may not have met the requirements of previous plans as to timeliness or amounts of payments made.
- There are a handful of personal property and 16/20 Truck motor vehicle taxes on the plan. I am unaware of a Kansas statute that authorizes a partial payment plan for these taxpayers.

In addition to these eligibility issues, one could question the judgment used in determining the time frame used in the partial payment plans. Although most plans required payment of all taxes and interest within 12 months, some terms were established requiring small payments for over 3 years. The following are four examples of partial payment plans for certain taxpayers:

- 2006 taxes - \$663.32; \$20/month due; 1/15/11 to 7/15/15
- 2010 taxes - \$971.86; \$25/month due; 1/15/11 to 3/15/14
- 2007 taxes - \$770.56; \$25/month due; 8/15/11 to 8/15/15
- 2004 taxes - \$712.72; \$50/month due; 11/10/10 to 2/10/15

2. There were numerous errors in the manner in which the partial payment plans were established and in place as of August 26, 2011 as follows:

- The taxes used in the amortization schedule for 23 of the 224 agreements in place right now made no sense whatsoever. The tax amount due on the schedules was twice the amount actually due. However, the interest rate used was obviously way too low, resulting in minimal amounts of interest scheduled to be collected.
- The amortization schedule for 18 of the agreements used the correct amount of tax to be collected, but again, the interest collected was obviously way too low. The Treasurer could provide no reason why the interest rates used were incorrect. She did not question the fact that the rates were obviously too low.
- The interest rate used for 27 of the agreements was actually higher than the rates that should have been used since the rate used was the correct rate at the time the agreement was made but the rate was reduced in subsequent years.
- Amortization schedules were not available for 8 of the taxpayers. Though the interest rate appeared reasonable, I could not verify the correct interest rate used.
- The interest rates used in 148 of the 224 plans was apparently correct.

The result of this finding is that the interest schedule to be collected for approximately 30% of the current plan participants were incorrectly calculated at the time the plan was established. If the terms of the agreement were followed, interest collected by the County would be incorrect. In some cases more interest would be collected, in other cases less.

There appeared to be no correlation between the dates a plan was established and if an incorrect rate was used. For example, two plans were dated April 2, 2010. For one plan, the correct rate of 7% was used. The other plan had an amortization schedule with twice the tax amount due and an obviously inadequate interest rate.

3. There were obvious errors in the interest rate as set up in the old Infnitec accounting software. These interest rate errors are apparently separate from those mentioned in the previous comments. These errors apparently led to the incorrect amount of accrued interest on taxes up to the date the partial payment plan was established. Recall that when a plan is established, taxes and interest due as of the date of the plan is then to be paid off over the term of the plan, with additional interest due. The accrued interest due was apparently incorrect for many of the taxpayers set up on a plan.
4. There were errors in the way interest was calculated for some people on the payment plan. There were taxpayers with a large amount of accrued interest due at the time the plan was established. The Infnitec accounting software applied the 1st payments under the plan to accrued interest. Sometimes several payments were necessary before the accrued interest was paid off. No new interest was accrued on the delinquent taxes for the months in which the accrued interest was paid.
5. The prior four comments deal with the manner in which the plans were established. Once the plans were established, there were errors in the way the plans were implemented. Some taxpayers did not make their payments on a timely manner. Once the payments due under the plan were all made, the interest according to the original payment plan was still used. For these taxpayers, additional interest should have been charged since they did not make their partial tax payments on a timely manner.
6. We recalculated the proper interest charges for the partial payment plans completed from January 1, 2011 to August 26, 2011. In addition, we tested the taxes paid for the following taxpayers:
 - taxes paid in 2010 for the largest taxpayer on the plan
 - 2005 taxes paid by the Treasurer in 2010
 - 2009 taxes paid by a relative of the Treasurer in September 2011.

Due to the issues addressed in the previous comments, most taxpayers on the partial payment plan did not pay the correct amount of interest on their delinquent taxes. The interest paid for by the largest taxpayer for two tax years was underpaid by over \$5,000. As stated in the next two paragraphs, the Treasurer originally underpaid interest but ultimately overpaid interest by over \$300. All the other taxpayers overpaid their interest by approximately \$800.

The Treasurer's 2006 taxes paid on 6/22/11 originally showed interest paid of \$183.30 resulting in an underpaid interest of \$98.93. An additional payment of \$200 was made on September 9, 2011, resulting in overpaid interest of \$101.07

The Treasurer's 2005 taxes, paid on April 16, 2008 originally showed interest paid of \$15.35 resulting in underpaid interest of \$156.67. An additional interest payment of \$392.60 was made, resulting in \$245.32 in overpaid interest.

7. A citizen provided Commissioner Endicott with tax information for one taxpayer that appeared to show no interest paid when the delinquent taxes were paid for the tax years from 2006 through 2010. We reviewed the tax receipt for this taxpayer and verified that interest totaling over \$1,130 was not collected when the taxes were paid in August 2011.

We were informed by the Treasurer that this property was on the next tax sale scheduled in January 2012. The taxpayer was selling the property but the buyer would only pay for the back taxes, excluding the delinquent interest.

The Treasurer made the decision to accept the tax payments excluding the interest since she was under the belief that the property would be sold for less than the amount of taxes due. The Treasurer chose to collect only the taxes due in this case in lieu of possibly receiving less at a tax sale.

Summary of Results and Procedures

- Delinquent real estate taxes were ultimately published as required by Kansas Statutes except for one taxpayer inadvertently left off the published lists.
- Lists of delinquent taxes for each year are readily available from the Treasurer's office.
- The real estate tax sales in January 2012 will include those taxpayers on a partial payment plan.
- Interest paid in 2011 on delinquent taxes for most taxpayers on the partial payment plan was not correct due to numerous factors, including: errors in the way the plans were set up; errors in the way the software calculated interest; and errors in the way interest was recorded in the accounting records.

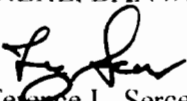
Recommendations

- There have obviously been serious errors in the maintenance and management of the partial payment plans. There are inherent errors in the plans currently in place. 88% of the plans currently in place are not making payments as required by the agreements. In addition, 6% more do not have signed agreements with the taxpayers. We recommend that the payment plans for these taxpayers be declared defaulted. The remaining plans working as agreed will likely need to continue. However, the interest paid on these plans should be recalculated so that the final interest paid upon completion of the plans is correct.
- Internal controls should be strengthened in the Treasurer's office in regards to the recording of interest on delinquent taxes. The Treasurer should not be able to override interest according to interest due on the new tax software without approval of a second person, preferable from a second office, such as the Clerks office.

This concludes the discussions of our work performed on delinquent taxes at Bourbon County. If you have any questions or comments, please feel free to contact me.

Very truly yours,

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