

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SUPPLEMENTAL COMPLIANCE REPORT

OF

TOWN OF GASTON

DELAWARE COUNTY, INDIANA

January 1, 2013 to December 31, 2015



FILED
10/24/2016

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Krista L. Harris	01-01-12 to 12-31-15
	Teresa Smith	01-01-16 to 12-31-19
President of the Town Council	Jay Beeson	01-01-13 to 12-31-13
	Rick Dampier	01-01-14 to 12-31-15
	Jay Beeson	01-01-16 to 12-31-16



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF GASTON, DELAWARE COUNTY, INDIANA

This report is supplemental to our examination report of the Town of Gaston (Town), for the period from January 1, 2013 to December 31, 2015. It has been provided as a separate report so that the reader may easily identify any instances of noncompliance resulting in charges that pertain to the Town. It should be read in conjunction with our Financial Statements Examination Report of the Town, which provides our opinion on the Town's financial statements. This report may be found at www.in.gov/sboa/.

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Examination Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.

Any Official Response to the Examination Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

April 21, 2016

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CLERK-TREASURER
TOWN OF GASTON

CLERK-TREASURER
TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS

UNRESOLVED PAYROLL TAX ISSUES, SALES AND USE TAX, AND UTILITY RECEIPTS TAX

The Town had a number of significant issues related to required tax filings with State and Federal agencies. Details related to these issues are discussed below:

Internal Revenue Service

From February 25, 2013 to February 25, 2016, the Town received five assessment notices from the Internal Revenue Service (IRS). Issues addressed in these notices included failure to file Forms W-2 and W-3 for wages paid for 2011 and 2012, and failure to make proper and/or timely federal payroll tax deposits in 2010 and 2015.

In an effort to clear up the known payroll tax reporting issues, the Town obtained account transcripts from the IRS for each period in question. These transcripts revealed additional interest and penalties that had either not been presented for examination or not yet been assessed by the IRS. The assessments totaled \$46,682.24, of which \$2,597.48 was paid using Town funds by Krista L. Harris, former Clerk-Treasurer (Harris).

Social Security Administration

Subsequent to the examination period, on January 29, 2016, the Town received a notice from the Social Security Administration indicating the IRS Forms W-2 submitted for 2014 to the agency did not agree with amounts reported to the IRS on the corresponding IRS Forms 941.

Our examination also indicated that the amounts reported on IRS Forms W-2 for 2013 and 2015 did not agree with amounts reported on the corresponding IRS Forms 941.

State and County Payroll Withholdings

A review of the Indiana Department of Revenue's (IDOR) tax transcripts for the period examined indicated the Town had incurred and paid interest and penalties related to late or improper deposits of payroll taxes for January 2014, May 2015, and June 2015, totaling \$252.02.

Sales and Use Tax

A review of the IDOR's tax transcripts for the period examined indicated the Town had incurred and paid interest and penalties related to late filing or improper deposits of sales tax for December 2013, February 2015, May 2015, and June 2015, totaling \$303.74.

Utility Receipts Tax

As stated in prior Report B43267, the Town had not complied with directives of the IDOR by failing to file annual Form URT-1 for 2011 and 2012. As of the date of this report, these forms remain unfiled.

A review of the IDOR's tax transcripts for the period examined indicated the Town had incurred and paid interest and penalties related to late filings of Utility Receipts Tax totaling \$369.03. The Town failed to file Form URT-1 for 2013 or pay the tax due for the last two quarters of 2013 until December 2015. Additionally, 2014 URT taxes were not paid until December 2015.

CLERK-TREASURER
TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

Details related to the issues discussed above are included in Appendix A, page 17.

Each governmental unit is responsible for compliance with all rules, regulations, guidelines, and directives of the Internal Revenue Service and the Indiana Department of Revenue. All questions concerning taxes should be directed to these agencies. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns Chapter 7)

Generally, retail receipts from all utility services consumed within Indiana are subject to the utility receipts tax regardless of the point of generation or transmission across state lines. Receipts from the provision of mobile telecommunication service are subject to utility receipts tax to the extent that the receipts are sourced to Indiana pursuant to Indiana Code 6-8.1-15. However, gross receipts received by a political subdivision for sewage and sewage service are not subject to the tax.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit. Any penalties, interest, or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

We requested Harris reimburse the Town \$3,522.27 for penalties and interest paid by the Town for failure to properly report and or timely remit state and federal taxes to the respective agencies. Additionally, Harris was informed that should the Town be unsuccessful in its attempt to get additional penalties and interest currently assessed by the IRS waived, Harris would be liable for an additional \$44,084.76. (See Summary of Charges, page 19)

PENALTIES, INTEREST, AND OTHER CHARGES - PERF

The Town paid \$1,000 in penalties on December 7, 2015, to Public Employees Retirement Fund (PERF) due to late remittances of employer contributions for 2015.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit.

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CLERK-TREASURER
TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

We requested Harris reimburse the Town \$1,000 for penalties incurred for failure to timely remit the Town's PERF contribution. (See Summary of Charges, page 19)

PENALTIES, INTEREST, AND OTHER CHARGES - DELAWARE COUNTY TREASURER

The Town paid \$233.60 in penalties on April 14, 2016, to the Delaware County Treasurer due to late payments of property taxes for 2015.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit.

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

Any penalties, interest, or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

We requested Harris reimburse the Town \$233.60 for penalties paid due to late payment of property taxes for 2015. (See Summary of Charges, page 19)

ADDITIONAL INVESTIGATION COSTS

The State of Indiana incurred additional costs in the investigation of the Clerk-Treasurer for payment of penalties and interest totaling \$1,668.60.

Audit costs incurred because of theft or shortage may be the personal obligation of the responsible official or employee.

Audit costs or other costs incurred because of poor records, nonexistent records or other inadequate bookkeeping practices may be the personal obligation of the responsible official or employee of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

We requested Harris reimburse the State of Indiana \$1,668.60 for additional investigation costs. (See Summary of Charges, page 19)

INTERNAL CONTROLS

Internal controls over disbursements were insufficient. Payments were not made timely resulting in the paying of penalties and interest.

CLERK-TREASURER
TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets, and all forms of information processing are necessary for proper internal control. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

OFFICIAL BONDS

Harris was covered by the following official bonds:

Bond Period	Coverage Amount
August 18, 2013 to August 18, 2014	\$ 30,000
August 18, 2014 to August 18, 2015	30,000
August 18, 2013 to August 18, 2016	30,000

ANNUAL FINANCIAL REPORT

The following issues were noted related to the Annual Financial Reports (AFR):

1. The AFRs for 2013 and 2014 were not filed with the State Examiner until April 4, 2014, and April 15, 2015, respectively, which were 34 days and 45 days, respectively, past the due date.
2. The original AFR filed for 2014 erroneously presented the 2013 transactions rather than the correct 2014 transactions.
3. The AFR for 2015 erroneously reported a transfer into the General Fund of \$86,218 and transfers out from the Motor Vehicle Highway fund and Local Road & Street fund of \$43,109 each.

Indiana Code 5-11-1-4(a) states:

"The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under IC 5-14-3.8-7."

CLERK-TREASURER
TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

FORM 100-R NOT TIMELY FILED

The Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form 100-R or its equivalent) for 2013 and 2014 were filed on February 5, 2014, and February 10, 2015, respectively, which were five days and ten days, respectively, past the due date.

Indiana Code 5-11-13-1(a) states in part:

"Every state, county, city, town, township, or school official, elective or appointive, who is the head of or in charge of any office, department, board, or commission of the state or of any county, city, town, or township, and every state, county, city, town, or township employee or agent who is the head of, or in charge of, or the executive officer of any department, bureau, board, or commission of the state, county, city, town, or township, and every executive officer by whatever title designated, who is in charge of any state educational institution or of any other state, county, or city institution, shall during the month of January of each year prepare, make, and sign a certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents in their respective offices, departments, boards, commissions, and institutions, and the respective duties and compensation of each, and shall forthwith file said report in the office of the state examiner of the state board of accounts. . . . "

OVERDRAWN CASH BALANCES

The financial statements presented for examination included the following funds with overdrawn cash balances at December 31, 2013, December 31, 2014, and December 31, 2015:

Fund	Amount Overdrawn		
	2013	2014	2015
Payroll State Withholdi	\$ 263	\$ 316	\$ 595
General Fund	-	19,265	43,717
Payroll Federal Withhol	-	468	2,887
Payroll Medicare Withho	-	327	2,754
Sewage Loan to Star Bank	-	9,138	8,913
Payroll Net Pay	-	-	1,947
Payroll County Adj. Gro	-	-	119

The cash balance of any fund may not be reduced below zero. Routinely overdrawn funds could be an indicator of serious financial problems which should be investigated by the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 4)

CLERK-TREASURER
TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

ERRORS ON CLAIMS

Of the claims tested, 27 percent did not have proper approval by the fiscal officer. Checks were dated as much as 24 days prior to the certification date.

Indiana Code 5-11-10-1.6 states in part:

". . . (b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim. . . ."

DELINQUENT WASTEWATER ACCOUNTS

Delinquent wastewater fees and penalties had not been recorded with the County Recorder nor were they certified to the County Auditor which would result in a lien against the property for the years 2011, 2012, 2013, and 2014 until December 2015.

Indiana Code 36-9-23-33 states in part:

". . . (c) Except as provided in subsection (m), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare either of the following:

- (1) A list of the delinquent fees and penalties that are enforceable under this section, which must include the following:
 - (A) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.
 - (B) A description of the premises, as shown by the records of the county auditor.
 - (C) The amount of the delinquent fees, together with the penalty.

CLERK-TREASURER
TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

- (2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

- (d) The officer shall record a copy of each list or each individual instrument with the county recorder . . .

- (f) . . .Using the lists and instruments prepared under subsection (c) and recorded under subsection (d), the officer shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (d), certify to the county auditor a list of the unpaid liens for collection with the next May installment of property taxes. . . ."

PUBLIC RECORDS RETENTION

Bank reconcilements for the period January 1, 2015 to November 30, 2015, were not available for examination when requested in January 2016.

Reports to the IRS, Social Security Administration, IDOR, and the Indiana Department of Workforce Development were not all available for examination.

Town Council minutes for December 2014, August 2015, and November 2015, were not available for examination.

Indiana Code 5-15-6-3(f), concerning destruction of public records, states in part: "Original records may be disposed of only with the approval of the commission according to guidelines established by the commission. . . ."

CONDITION OF RECORDS

A review of the records indicated the following deficiencies:

1. A 2014 local tax distribution was erroneously posted to the Motor Vehicle Highway fund rather than the General Fund in the amount of \$7,261. Wheel tax for 2015 was erroneously posted to the Local Road and Street fund rather than the Motor Vehicle Highway fund in the total amount of \$9,715.

2. A 2014 state distribution was erroneously posted to the Payroll Unknown fund in the amount of \$1,988 rather than to the General Fund (\$417) and Motor Vehicle Highway fund (\$1,571).

CLERK-TREASURER
TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

3. Record transactions for 2015 were posted from the bank statements rather than from original source documents such as receipts, duplicate checks, and claims.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

ORDINANCES AND RESOLUTIONS - UTILITY BILLINGS

The Town Council passed Ordinance 2010-3, establishing rates and charges for the water and wastewater utilities. The following items were not billed in accordance with the ordinance:

1. A hydrant rental charge of \$560.62 per hydrant was charged in 2014 and 2015; however, the rate ordinance established charges of \$577.64 and \$594.97, respectively.
2. Six customers were overbilled a total of \$11,447 for the period January 1, 2011 to December 31, 2015. Water Utility and Wastewater Utility overbillings totaled \$4,675 and \$6,772, respectively.
3. The reconnect fee charged was \$50; however, the ordinance required reconnect fees to be charged at a rate of \$25.
4. The meter tampering fee charged was \$200; however, the ordinance required tampering fees to be charged at a rate of \$100.
5. The non-sufficient funds (NSF) fee charged was \$31, however, the ordinance required NSF fees to be charged at a rate of \$25.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

ORDINANCES AND RESOLUTIONS - UTILITY CUSTOMER ADJUSTMENTS

Adjustments made to customer utility accounts in 2015 were not properly documented. Many adjustments had no Adjustment Voucher attached and were not signed by the Town Council President. The Town had an ordinance concerning billing practices which addresses procedures for making adjustments to utility accounts. Ordinance 1999-12 stated in part: "Adjustments to be made on leaks for water and sewage costs will be given only after the customer has corrected the condition causing the leak and sign an adjustment voucher in the utility office . . . Each month the adjustments made will be presented to the Council President for review of adjustments given."

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 4)

CLERK-TREASURER
TOWN OF GASTON
EXAMINATION RESULTS AND COMMENTS
(Continued)

ORDINANCES AND RESOLUTIONS - CLOTHING ALLOWANCE

The Town had an ordinance regarding clothing allowance for the police department (Ordinance 2009-05). The ordinance stated that the Marshal would receive \$750, the part-time deputies would receive \$500, and reserve officers would receive \$300. The Clerk-Treasurer did not maintain records documenting clothing allowance purchases by individual officers.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

APPENDIX

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APPENDIX A

<u>Tax Type/Period</u>	<u>Notice Date</u>	<u>Issue</u>	<u>Penalty</u>	<u>Interest</u>	<u>Tax</u>	<u>Total Assessed</u>	<u>Paid or Credited by Town</u>	<u>Unpaid Assessment</u>
Federal								
<i>Assessment Notices</i>								
941/ 4th Quarter 2010	February 25, 2013	Improper or late payroll deposits	\$ 97.51	\$ 0.06	\$ -	\$ 97.57	\$ 97.57	\$ -
941/2nd Quarter 2015	January 18,2016	Improper or late payroll deposits	909.34	0.06	7.16	916.56	916.56	-
W-2 and W-3/ 2011	February 25, 2016	Failure to File W-2 and W-3	21,406.13	853.00	-	22,259.13	1,096.55	21,162.58
W-2 and W-3/ 2012	February 25, 2016	Failure to File W-2 and W-3	21,533.20	361.95	-	21,895.15	-	21,895.15
941/3rd Quarter 2015	February 25, 2016	Improper or late payroll deposits	1,027.03	-	-	1,027.03	-	1,027.03
<i>Per IRS Account Transcripts</i>								
941/1st Quarter 2014	Not Applicable	Improper or late payroll deposits	486.41	0.39	-	486.80	486.80	-
State								
WH-1/January 2014	Not Applicable	Improper or late payroll deposits	93.13	0.94	-	94.07	94.07	-
WH-1/May 2015	Not Applicable	Improper or late payroll deposits	77.20	2.73	-	79.93	79.93	-
WH-1/June 2015	Not Applicable	Improper or late payroll deposits	77.20	0.82	-	78.02	78.02	-
ST-103/December 2013	Not Applicable	Late payment of Sales Tax	71.68	4.36	-	76.04	76.04	-
ST-103/February 2015	Not Applicable	Late payment of Sales Tax	75.38	0.06	-	75.44	75.44	-
ST-103/May 2015	Not Applicable	Late payment of Sales Tax	72.00	2.54	-	74.54	74.54	-
St-103/June 2015	Not Applicable	Late payment of Sales Tax	76.90	0.82	-	77.72	77.72	-
2013/URT-1	Not Applicable	Late payment of Utility Receipts Tax	98.01	51.21	-	149.22	149.22	-
2014/URT-1	Not Applicable	Late payment of Utility Receipts Tax	180.05	39.76	-	219.81	219.81	-
Totals			<u>\$ 46,281.17</u>	<u>\$ 1,318.70</u>	<u>\$ 7.16</u>	<u>\$ 47,607.03</u>	<u>\$ 3,522.27</u>	<u>\$ 44,084.76</u>

CLERK-TREASURER
TOWN OF GASTON
EXIT CONFERENCE

The contents of this report were discussed with Teresa Smith, Clerk-Treasurer, Jay Beeson, President of the Town Council; George Stanley, Town Council member; and Tanya Hiatt, Town Council member, on April 20, 2016, and with Krista L. Harris, former Clerk-Treasurer, on April 21, 2016.

CLERK-TREASURER
TOWN OF GASTON
SUMMARY OF CHARGES

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Krista L. Harris, former Clerk-Treasurer:			
Unresolved Payroll Tax Issues, Sales and Use Tax, and Use Tax and Utility Receipts Tax, pages 6 and 7	\$ 3,522.27	\$ -	\$ -
Penalties, Interest, and Other Charges - PERF, pages 7 and 8	1,000	-	-
Penalties, Interest, and Other Charges - Delaware County Treasurer, page 8	233.60	-	-
Additional Investigation Costs, page 8	<u>1,668.60</u>	<u>-</u>	<u>-</u>
 Total	 <u>\$ 6,424.47</u>	 <u>\$ -</u>	 <u>\$ 6,424.47</u>

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.

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