B50546

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

SPECIAL COMPLIANCE REPORT
OF

CLERK-TREASURER
TOWN OF CLARKS HILL
TIPPECANOE COUNTY, INDIANA

January 1, 2011 to March 31, 2015

FILED
07/26/2018

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
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TO: THE OFFICIALS OF THE TOWN OF CLARKS HILL, TIPPECANOE COUNTY, INDIANA

This is a special compliance report for the Town of Clarks Hill (Town), for the period January 1, 2011 to March 31, 2015, and is in addition to any other report for the Town as required under Indiana Code 5-11-1. All reports pertaining to the Town may be found at www.in.gov/sboa/.

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to records associated with penalties, interest, and other charges paid. The 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.

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

Paul D. Joyce

Paul D. Joyce, CPA
State Examiner

May 23, 2018

PENALTIES, INTEREST, AND OTHER CHARGES: WITHHOLDINGS - INTERNAL REVENUE SERVICE

A similar comment also appeared in prior Report B39244, entitled *UTILITY RECEIPTS TAX.*

Deborah Sutton (Sutton), former Clerk-Treasurer, paid penalties, interest, and other charges assessed by the Internal Revenue Service (IRS) to the U.S. Treasury. These payments were the result of late filings of required IRS forms necessary to report and pay withholdings and other taxes due from the Town.

The Town submitted amended reports to the IRS and obtained refunds for some of the payments made. The following schedule summarizes these transactions related to taxes and penalties, interest, and other charges:

Years	Amounts Assessed by IRS Including Penalties and Interest Paid	Taxes Due to Department of Treasury	Over (Under) Payments
2011	$ 31,001.15	$ 47,825.65	$ (16,824.50)
2012	39,150.09	41,427.47	(2,277.38)
2013	49,961.97	54,869.41	(4,907.44)
2014	100,821.50	43,116.44	57,705.06
2015	24,662.49	10,397.50	14,264.99
Totals	245,597.20	197,636.47	47,960.73
Less: Refunds Received From Department of Treasury			(27,811.15)
Net Penalties, Interest, and Other Charges			$ 20,149.58

Officials and employees have a 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 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 unit. Any penalties, interest, or other charges paid by the unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested that Sutton reimburse the Town $20,149.58 for penalties, interest, and other charges paid to the IRS for late payments of withholdings. (See Summary of Charges, page 10)

PENALTIES, INTEREST, AND OTHER CHARGES: WITHHOLDINGS - INDIANA DEPARTMENT OF REVENUE

A similar comment also appeared in prior Report B39244, entitled *UTILITY RECEIPTS TAX.*

Sutton paid penalties, interest, and other charges to the Indiana Department of Revenue (IDOR). These payments were the result of late filings of required forms to the IDOR in order to process withholdings due from the Town.

The following schedule summarizes these transactions related to taxes and related penalties, interest, and other charges:

Years	Amounts Assessed by IDOR Including Penalties and Interest Paid	Taxes Due to IDOR	Over (Under) Payments
2011	$ 4,978.26	$ 6,185.96	$ (1,207.70)
2012	7,694.24	6,836.03	858.21
2013	7,765.91	6,795.75	970.16
2014	13,533.52	6,916.05	6,617.47
2015	6,934.03	1,852.21	5,081.82
Totals	$ 40,905.96	$ 28,586.00	$ 12,319.96

Officials and employees have a 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 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 unit. Any penalties, interest, or other charges paid by the unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested that Sutton reimburse the Town $12,319.96 for penalties, interest, and other charges paid to the IDOR for late payments of withholdings. (See Summary of Charges, page 10)

PENALTIES, INTEREST, AND OTHER CHARGES: SALES TAX - INDIANA DEPARTMENT OF REVENUE

A similar comment also appeared in prior Report B39244, entitled *UTILITY RECEIPTS TAX.*

Sutton paid penalties, interest, and other charges to the IDOR. These payments were the result of late filings of required IDOR forms necessary to process sales tax due from the Town for Water Utility sales.

The following schedule summarizes these transactions related to these taxes and related penalties, interest and other charges:

Years	Amounts Assessed by IDOR Including Penalties and Interest Paid	Taxes Due to IDOR	Over (Under) Payments
2011	$ 3,702.13	$ 4,044.53	$ (342.40)
2012	4,065.36	3,981.06	84.30
2013	3,656.64	4,220.57	(563.93)
2014	9,382.20	4,040.05	5,342.15
2015	6,889.87	1,012.89	5,876.98
Totals	$ 27,696.20	$ 17,299.10	$ 10,397.10

Officials and employees have a 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 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 unit. Any penalties, interest, or other charges paid by the unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested that Sutton reimburse the Town $10,397.10 for penalties, interest, and other charges paid to the IDOR for late payments of sales tax. (See Summary of Charges, page 10)

PENALTIES, INTEREST, AND OTHER CHARGES: BANK CHARGES

During the investigation period, the Town incurred overdraft charges and return item charges from their depository. These charges were the result of overdrawing the Town's bank account and nonsufficient funds checks being returned.

The following is a schedule by year of the bank charges paid:

Years	Bank Charges Incurred
2012	$ 564
2013	907
2014	370
Total	$ 1,841

Officials and employees have a 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 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 unit. Any penalties, interest, or other charges paid by the unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested Sutton to reimburse the Town $1,841 in bank charges incurred by the Town. (See Summary of Charges, page 10)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred additional costs in the investigation of the penalties, interest, and other charges paid by the Town.

Audit costs incurred because of poor records, nonexistent records, or any other inadequate bookkeeping practices, or because of theft or a shortage may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested that Sutton reimburse the State of Indiana $12,265.74 for special investigation costs. (See Summary of Charges, page 10)

INTERNAL CONTROL DEFICIENCIES

There were deficiencies noted in the internal controls regarding the timely payments of taxes collected and subsequently paid to the U.S. Treasury and the IDOR. Penalties and interest were assessed by these agencies and paid by Sutton as a result. There was no oversight to ensure that payments were made timely to the U.S. Treasury and IDOR.

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards* for Indiana Political Subdivisions. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

> "Control activities are the actions and tools established through policies and procedures that help to detect, prevent or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner, whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.
>
> An integral part of the control activity component is segregation of duties. . . .
>
> There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

OFFICIAL BOND COVERAGE

The following is the official bond coverage for Sutton:

Period	Amount
01-01-08 to 06-15-11	$ 15,000
06-16-11 to 01-01-12	30,000
01-01-12 to 01-01-16	30,000

CLERK-TREASURER
TOWN OF CLARKS HILL
EXIT CONFERENCE

The contents of this report were discussed on May 23, 2018, with Diana Luper, Clerk-Treasurer; Deborah Sutton, former Clerk-Treasurer; Clark Whitley, President of the Town Council; Dustin Winger, Town Council member; and John Barton, Town Council member.

I asked for help from IRS, the State, other clerk treasures and for state board of account. No help or advice given to help solve the issue. I thought That at least paying something was better than not paying at all.   I tried my best. Didn't know where else to turn for help.

Deborah Sutton

CLERK-TREASURER
TOWN OF CLARKS HILL
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	Charges	Credits	Balance Due
Deborah Sutton, former Clerk-Treasurer:			
Penalties, Interest, and Other Charges:			
Withholdings - Internal Revenue Service, page 3	$ 20,149.58	$ -	$ 20,149.58
Penalties, Interest, and Other Charges:			
Withholdings - Indiana Department of Revenue, pages 3 and 4	12,319.96	-	12,319.96
Penalties, Interest, and Other Charges:			
Sales Tax - Indiana Department of Revenue, pages 4 and 5	10,397.10	-	10,397.10
Penalties, Interest, and Other Charges: Bank Charges, pages 5 and 6	1,841.00	-	1,841.00
Subtotals	44,707.64	-	44,707.64
Special Investigation Costs, page 6	12,265.74	-	12,265.74
Totals	$ 56,973.38	$ -	$ 56,973.38

This report was forwarded to the Office of the Indiana Attorney General.

AFFIDAVIT

STATE OF INDIANA)
)
DELAWARE COUNTY)

I, William Vinson, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the Town of Clarks Hill, Tippecanoe County, Indiana, for the period from January 1, 2011 to March 31, 2015, is true and correct to the best of my knowledge and belief.

Wm. F. Vinson
Field Examiner

Subscribed and sworn to before me this 20th day of June, 2018

Michael A King
Notary Public

My Commission Expires: 12-31-18

County of Residence: Delaware