

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

TOWN OF MONROE

ADAMS COUNTY, INDIANA

January 1, 2018 to December 31, 2018



FILED
04/22/2020

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Rachel E. Tague	01-01-17 to 12-31-23
President of the Town Council	Debra S. Giessler	01-01-18 to 12-31-20



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF MONROE, ADAMS COUNTY, INDIANA

This report is supplemental to our audit report of the Town of Monroe (Town), for the period from January 1, 2018 to December 31, 2018. It has been provided as a separate report so that the reader may easily identify any Audit Results and Comments that pertain to the Town. It should be read in conjunction with our Financial Statements Audit 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 Audit 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

March 19, 2020

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CLERK-TREASURER
TOWN OF MONROE

CLERK-TREASURER
TOWN OF MONROE
RESULTS AND COMMENTS

PENALTIES, INTEREST, AND OTHER CHARGES

Similar comments appeared in prior Report B52763, entitled *PAYROLL REPORTING - PENALTIES, INTEREST, AND OTHER CHARGES* and *PENALTIES, INTEREST, AND OTHER CHARGES - SALES TAX REMITTANCE*.

Condition and Context

Rachel A. Burkhart (Burkhart), former Clerk-Treasurer, was responsible for the correct and timely filing of required federal and state reporting. We identified penalties and interest paid to the Internal Revenue Service (IRS) as noted in the schedule below.

Reporting of the quarterly wages on the IRS Employer's Quarterly Federal Tax Return (Form 941) was incorrect and underpaid for 2014 and 2016, resulting in penalties and interest paid during 2018 and 2019.

Payee	2018 Amount	2019 Amount	Total
IRS - Penalty and Interest for underpayment of taxes on 12-31-16	\$ 1,280.56	\$ -	\$ 1,280.56
IRS - Reduction of Penalty and Interest for unpaid taxes on 12-31-16	-	(219.70)	(219.70)
Totals	<u>\$ 1,280.56</u>	<u>\$ (219.70)</u>	<u>\$ 1,060.86</u>

Rachel E. Tague (Tague), as Clerk-Treasurer, was responsible for the correct and timely filing of required federal and state reporting. We identified penalties and interest paid to various reporting agencies as noted in the schedule below.

Reporting of the quarterly wages on the Internal Revenue Service (IRS) Employer's Quarterly Federal Tax Return (Form 941) was incorrect for all four quarters of 2018.

The Town did not file correct and/or timely remittances of Water Utility sales tax to the Indiana Department of Revenue (IDOR) during February, March, and November of 2018. The remittance for February was paid twice, once in May, and again in June, with penalties totaling \$187.85. The remittance for March was paid in June with a penalty of \$90.79. The remittance for November was underpaid, resulting in a penalty of \$9.38.

The Wastewater Utility paid late fees to a vendor in the amount of \$79.95 on April 3, 2018, for an invoice due on January 23, 2018.

CLERK-TREASURER
TOWN OF MONROE
RESULTS AND COMMENTS
(Continued)

Payee	2018 Amount	2019 Amount
IDOR - Penalty and Interest for Jan 2018 WH-1 underpayment of taxes (proposed assessment)	\$ 27.44	\$ -
IDOR - Penalty and Interest for Feb 2018 WH-1 late remittance (proposed assessment)	97.55	-
IDOR - Penalty for Feb 2018 WH-1 late remittance (actual WH-1)	59.87	-
IDOR - Penalty for Feb 2018 Sales Tax late remittance (proposed assessment)	86.70	-
IDOR - Penalty for Feb 2018 Sales Tax late remittance (actual amount owed)	101.15	-
IDOR - Penalty for March 2018 Sales Tax late remittance (actual amount owed)	90.79	-
Late payment penalty for Wastewater Utility invoice	79.95	-
IDOR - Penalty and Interest for Nov 2018 Sales Tax remittance (proposed assessment)	-	9.38
IRS - Penalty and Interest for underpayment of taxes on 03-31-18	-	2,523.23
SUTA - Penalty and Interest for late remittance of 06-30-19 unemployment taxes	-	8.52
	<hr/>	<hr/>
Totals	<u>\$ 543.45</u>	<u>\$ 2,541.13</u>

Criteria

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 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 Burkhart reimburse the Town for payroll reporting penalties and interest in the amount of \$1,060.86. (See Summary of Charges, page 12)

We requested that Tague reimburse the Town for penalties, interest, and other charges paid for payroll reporting, late sales tax remittances and late fees to a vendor in the amount of \$3,084.58. (See Summary of Charges, page 12)

OFFICIAL BOND

A \$30,000 official bond for Burkhart was obtained from Liberty Mutual Surety and covers the term beginning January 1, 2016 and ending December 31, 2016.

A \$30,000 official bond for Tague was obtained from The Cincinnati Insurance Company and covers the term beginning January 1, 2018, and ending December 31, 2018.

Indiana Code 5-4-1-5.1(b) states in part: "Every elected or appointed officer, official, deputy, employee, or contractor of a political subdivision . . . shall file the bond with the fiscal officer of the political subdivision and in the office of the county recorder. . . ."

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March 31, 2020

Indiana State Board of Accounts
Attn.: Mr. Paul D. Joyce, C.P.A.
State Examiner
302 West Washington Street, Rm. E418
Indianapolis, Indiana 46204-2769

VIA E-mail: ldavid@sboa.in.gov **with hard copy to follow via U.S. Postal Mail**

RE: Town of Monroe (Adams County) – 2018 Audit

This letter is to serve as the ten (10) day response letter from the Town Board of the Town of Monroe (“Town”) to the State Board of Accounts (“SBOA”) concerning the exit interview with the Town for the 2018 Audit. The Town has made improvements to its accounting practices following the 2015, 2016 and 2017 Audit, which was completed in March of 2019. The findings made by the SBOA Audit for 2015, 2016 and 2017 were similar to those findings in the 2018 Audit, which is primarily due to a lack of time to address those issues in 2018. The Town takes the findings by the SBOA seriously and has made improvements to its accounting operations to correct the deficiencies identified in both audits. The Town will continue making these improvements. However, the findings in the 2015, 2016 and 2017 Audit could not have been adopted by the Town of Monroe in 2018 as that year had already concluded. Consequently, the Town does not feel that the findings of the 2018 (as outlined below) Audit are equitable to the Town Clerk-Treasurer in light of the timing in relation to the 2015, 2016 and 2017 Audit; those changes could not have been incorporated in 2018.

As for the “Audit Results and Comments”, the Town Board and the Town Clerk-Treasurer have requested that I respond to the Penalties, Interest and Other Charges that are also included in the “Summary of Charges”. These two sections of the Audit Results and Comments recommends that the Town Clerk-Treasurer (both former and current) reimburse the Town for Penalties and Interest that accrued during 2018 due to untimely filing of required state and federal of (i) quarterly filings to the Internal Revenue Service; (ii) remittance to the Indiana Department of Revenue for Water Utility charges; and, (iii) a late fee to a vendor for Waste Water Utility. These findings request a total of Four Thousand One Hundred Forty-Five and 46/100 Dollars (\$4,145.46) be reimbursed to the Town by the individual persons who served as the Town Clerk-Treasurer. These fees accrued due to a lack of training and familiarity with the procedures required and are not due to “Malfeasance, Misfeasance, on Nonfeasance”, as labeled in the “Summary of Charges”.

Indiana Code provides, in part, “If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general and inspector general.” (See Ind. Code § 5-11-5-1(a)). The Town maintains that the findings of the examiner did not reveal malfeasance or

even misfeasance. Further, the statute provides that “If the examination discloses malfeasance, or misfeasance, or nonfeasance in an office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner . . .” (Emphasis added). The Town maintains that labeling the Summary of Charges with the terms malfeasance and misfeasance color the findings of the SBOA with criminal intent. Further, there are no findings in the report that substantiate these terms being used in the report. From a textual reading of the statute, it appears that the SBOA examiner has discretion to report whether there was malfeasance or misfeasance. Consequently, we are respectfully requesting that these two terms be stricken from the “Summary of Charges”, since this report will be published, the Town feels the two terms are misleading to the public.

As for the reimbursement, the Town respectfully requests that the SBOA waive that reimbursement request. Any errors made by the Town Clerk-Treasurer are not supported by any allegations of malfeasance or misfeasance. Consequently, the “requested” reimbursement appears to be punitive in nature and unequitable under the findings and circumstances. Further, imposing requests for reimbursement against the Town Clerk-Treasurer may frustrate the Town’s ability to attract and retain qualified persons from seeking and filling this office. For the foregoing reasons, the Town respectfully requests that the SBOA waive the requested reimbursements from the Town Clerk-Treasurer (both former and current). Should you or any of your staff have any questions or comments, please do not hesitate to contact me at (260) 724-2154 or via e-mail at ssomers@mbbattorneys.com.

Sincerely,

MILLER, BURRY & BROWN, P.C.



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REPORT CROSS REFERENCE FOR OFFICIAL RESPONSE

The Official Response included above incorporates a response to audit results and comments that are included in Report B55008 filed on April 22, 2020.

CLERK-TREASURER
TOWN OF MONROE
EXIT CONFERENCE

The contents of this report were discussed on March 17, 2020, by phone conversation, with Rachel A. Burkhart, former Clerk-Treasurer.

The contents of this report were discussed on March 19, 2020, with Rachel E. Tague, Clerk-Treasurer; Debra S. Giessler, President of the Town Council; and Stacy K. Somers, Town Attorney.

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

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Rachel A. Burkhart, former Clerk-Treasurer:			
Penalties, Interest, and Other Charges, pages 6 and 7	\$ 1,060.86	\$ -	\$ 1,060.86
Rachel E. Tague, Clerk-Treasurer:			
Penalties, Interest and Other Charges 2018, pages 6 and 7	\$ 543.45	\$ -	\$ 543.45
Penalties, Interest and Other Charges 2019, pages 6 and 7	2,541.13	-	2,541.13
Total	<u>\$ 3,084.58</u>	<u>\$ -</u>	<u>\$ 3,084.58</u>

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

AFFIDAVIT

STATE OF INDIANA)
Wabash)
COUNTY)

We, Bailey Wray and Patrick Brandenburg, Field Examiners, being duly sworn on our oaths, state that the foregoing report based on the official records of the Town of Monroe, Adams County, Indiana, for the period from January 1, 2018 to December 31, 2018, is true and correct to the best of our knowledge and belief.

Patrick Brandenburg
Bailey Wray
Field Examiners

Subscribed and sworn to before me this 2 day of April, 2020

Carmy Myford
Notary Public

My Commission Expires: 12-31-2024

County of Residence: Wabash