

ORANGE COUNTY

Audit Report

PROPERTY TAX APPORTIONMENT AND ALLOCATION SYSTEM

July 1, 2008, through June 30, 2014



BETTY T. YEE
California State Controller

June 2016



BETTY T. YEE
California State Controller

June 30, 2016

The Honorable Eric H. Woolery, CPA
Auditor-Controller
Orange County
12 Civic Center Plaza, Room 200
P.O. Box 567
Santa Ana, CA 92702

Dear Mr. Woolery:

The State Controller's Office (SCO) audited the methods employed by Orange County to apportion and allocate property tax revenues for the period of July 1, 2008, through June 30, 2014. The audit was conducted pursuant to the requirements of Government Code section 12468.

Our audit found that the county complied with California statutes, except that it:

- Overcharged supplemental property tax administrative costs by approximately \$4.4 million, due to the inclusion of supplemental refunds within the computation
- Used incorrect tax revenue exchange percentages when enabling jurisdictional changes related to the City of Huntington Beach

Additionally, we made the following observations:

Qualified Electric Properties Tax Revenue Allocation

In fiscal year 2007-08, the California State Legislature enacted a new type of property tax for Qualified Electric Properties (QE). The SCO and the California State Association of County Auditors, Property Tax Managers' Sub-Committee are currently discussing the interpretation of Revenue and Taxation Code section 100.95, which governs the tax revenue allocation for QE. Therefore, the SCO cannot make a determination on the county's methodology at this time. We will follow up on this issue in the subsequent audit.

Redevelopment Property Tax Trust Fund

In May 2015, a court case between the cities of Chula Vista, El Cajon, Escondido, Poway, San Diego, San Marcos, and Vista versus the County of San Diego challenged the methodology in apportioning the residual balance from the redevelopment property tax trust fund. Therefore, the SCO cannot make a determination on the county's methodology at this time. We will follow up on this issue in the subsequent audit.

If you have any questions, please contact Elizabeth González, Chief, Local Government Compliance Bureau, at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/rg

Attachment

cc: Frank Davies, Director, Property Tax Division
Orange County, Office of Auditor-Controller
Arounsy Phommasa, Administrative Manager
Orange County, Office of Auditor-Controller
Don Rose, Auditor-in-Charge
California State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) audited the methods employed by Orange County to apportion and allocate property tax revenues for the period of July 1, 2008, through June 30, 2014.

Our audit found that the county complied with California statutes for the allocation and apportionment of property tax revenues, except that it:

- Overcharged supplemental property tax administrative costs by approximately \$4.4 million, due to the inclusion of supplemental refunds within the computation
- Used incorrect tax revenue exchange percentages when enabling jurisdictional changes related to the City of Huntington Beach

Additionally, we made the following observations:

Qualified Electric Properties Tax Revenue Allocation

In fiscal year (FY) 2007-08, the California State Legislature enacted a new type of property tax for Qualified Electric Properties (QE). The SCO and the California State Association of County Auditors, Property Tax Managers' Sub-Committee are currently discussing the interpretation of Revenue and Taxation Code section 100.95, which governs the tax revenue allocation for QE. Therefore, the SCO cannot make a determination on the county's methodology at this time. We will follow up on this issue in the subsequent audit.

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Background

After the passage of Proposition 13 in 1978, the California State Legislature enacted new methods for allocating and apportioning property tax revenues to local government agencies and public schools. The main objective was to provide local government agencies with a property tax base that would grow as assessed property values increased. These methods have been further refined in subsequent laws passed by the Legislature.

One key law was Assembly Bill (AB) 8, Chapter 282, Statutes of 1979, which established the method of allocating property taxes for FY 1979-80 (base year) and subsequent fiscal years. The methodology is commonly referred to as the AB 8 process or the AB 8 system.

The property tax revenues that local government agencies receive each fiscal year are based on the amount received in the prior year, plus a share of the property tax growth within their boundaries. Property tax revenues are then apportioned and allocated to local agencies and schools using prescribed formulas and methods defined in the Revenue and Taxation Code.

The AB 8 base process involved numerous steps, including the transfer of revenues from schools to local agencies (AB 8 shift) and the development of the tax rate area annual tax increment apportionment factors (ATI factors), which determine the amount of property tax revenues to be allocated to each jurisdiction.

The total amount to be allocated to each jurisdiction is then divided by the total amount to be allocated to all entities to determine the AB 8 apportionment factor (percentage share) for each entity for the year. The AB 8 factors are computed each year for all entities, using the revenue amounts established in the prior year. These amounts are adjusted for growth annually, using ATI factors.

Subsequent legislation removed revenues generated by unitary and nonunitary properties, regulated railway companies, and qualified electric properties from the AB 8 process. These revenues are now allocated and apportioned under separate processes.

Other legislation established an Educational Revenue Augmentation Fund (ERAF) in each county. Most local government agencies are required to transfer a portion of their property tax revenues to the fund. The fund is subsequently allocated and apportioned to schools by the county auditor according to instructions received from the county superintendent of schools or the State Chancellor of Community Colleges.

Revenues generated by the different types of property tax are apportioned and allocated to local agencies and schools using prescribed formulas and methods, as defined in the Revenue and Taxation Code. Taxable property includes land, improvements, and other properties that are accounted for on the property tax rolls maintained primarily by the county assessor. Tax rolls contain an entry for each parcel of land, including the parcel number, the owner's name, and the value. Following are the types of property tax rolls:

- *Secured Roll*—This roll contains property that, in the opinion of the assessor, has sufficient value to guarantee payment of the tax levies and that, if necessary, can be sold by the tax collector to satisfy unpaid tax levies.
- *Unsecured Roll*—This roll contains property that, in the opinion of the assessor, does not have sufficient “permanence” or have other intrinsic qualities to guarantee payment of taxes levied against it.
- *State-Assessed Roll*—This roll contains public utility, railroad, and qualified electric properties, assessed as either unitary or nonunitary property by the State Board of Equalization.

- *Supplemental Roll*—This roll contains property that has been reassessed due to a change in ownership or the completion of new construction, where the resulting change in assessed value is not reflected in other tax rolls.

To mitigate problems associated with the apportionment and allocation of property taxes, Senate Bill 418 was enacted in 1985 requiring the State Controller to audit the counties' apportionment and allocation methods and report the results to the California State Legislature.

Objectives, Scope, and Methodology

Our audit objective was to review the county's apportionment and allocation of property tax revenues to local government agencies and public schools within its jurisdiction to determine whether the county complied with Revenue and Taxation Code requirements.

To meet the objective, we reviewed the county's procedures for apportioning and allocating property tax revenues used by the county auditor and the processes used by the tax collector and the assessor.

We performed the following procedures:

- Conducted tests to determine whether the county correctly apportioned and allocated property tax revenue.
- Interviewed key personnel and reviewed supporting documentation to gain an understanding of the county's property tax apportionment and allocation processes.
- Reviewed apportionment and allocation reports prepared by the county showing the computations used to develop the property tax distribution factors.
- Reviewed tax rate area reports to verify that the annual tax increment was computed properly.
- Reviewed county unitary and operating nonunitary reports and Board of Equalization reports and verified the computations used by the county to develop the unitary and operating nonunitary property tax distribution factors.
- Reviewed successor agency Recognized Obligation Payment Schedules (ROPS) and county apportionment and allocation reports addressing the Redevelopment Property Tax Trust fund.
- Reviewed property tax administration cost reports prepared by the county and verified administrative costs associated with procedures used for apportioning and allocating property tax to local government agencies and school districts.
- Reviewed ERAF reports prepared by the county and verified the computations used to determine the shift of property taxes from local agencies to the ERAF and, subsequently, to public schools.

- Reviewed Sales and Use Tax (SUT) and Vehicle Licensing Fee reports and computations used to verify the amount of ERAF transferred to counties and cities to compensate for the diversion of these revenues.
- Reviewed reports and computations prepared by the county to determine any increases in property tax revenues due cities having low or non-existent property tax amounts.

We conducted this performance audit under the authority of Government Code sections 12468 and 12410. We did not audit the county's financial statements. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit covered the period of July 1, 2008, through June 30, 2014. Our audit scope was limited to:

- Reviewing operational procedures and significant applicable controls over the apportionment and allocation process;
- Examining selected property tax apportionment and allocation records; and
- Reviewing related property tax revenue data used to determine the apportionment and allocation computation process.

A property tax bill contains the property tax levied at a 1% tax rate pursuant to the requirement of Proposition 13. A bill may also contain special taxes, debt services levies on voter-approved debt, fees, and assessments levied by the county or a city. The scope of our audit is concerned with the distribution of the 1% tax levy. Special taxes, debt service levies on voter-approved debt, fees, and assessments levied by the county or a city are beyond the scope of our audit and were not reviewed or audited.

We limited our review of the county's internal controls to gaining an understanding of the transaction flow in order to develop appropriate auditing procedures. We did not evaluate the effectiveness of all internal controls.

In addition, we tested transactions used to apportion and allocate property taxes and performed other procedures deemed necessary. This report relates solely to the method used by the county to apportion and allocate property taxes.

Conclusion

Our audit found that, except for the items discussed in the Findings and Recommendations section of this report, Orange County complied with California statutes for the apportionment and allocation of property tax revenues for the period of July 1, 2008, through June 30, 2014. The county should correct the items discussed in the Findings and Recommendations section.

Additionally, we made observations related to the qualified electric properties tax revenue allocation and the redevelopment property tax trust fund discussed in the Observations section of this report.

Follow-up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued December 2009.

Views of Responsible Officials

We issued a draft audit report on April 27, 2016. Eric H. Woolery, Auditor-Controller, responded by letter dated May 31, 2016 (Attachment). He agreed with the audit results.

Restricted Use

This report is solely for the information and use of the County, the California State Legislature, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

June 30, 2016

Findings and Recommendations

FINDING 1— Supplemental property tax – administrative costs

The county overcharged supplemental property tax administrative costs by approximately \$4.4 million, due to the inclusion of supplemental refunds within the computation.

Revenue and Taxation (R&T) Code section 75.60 allows a county to charge an administrative fee for supplemental property tax collections. This fee is not to exceed 5% of the supplemental property taxes collected.

Recommendation

The SCO recommends that the county recalculate the supplemental administrative fees for the audit period by removing the refund amounts and returning the overcharges to the appropriate taxing agencies.

County's Response

We agree with the finding and the recommendation to return the supplemental administrative fee revenue over-recovered to the appropriate taxing agencies.

An adjustment to the recovery of supplemental administrative fee revenue was implemented at the start of fiscal year 2015-16. The adjustment will be carried out over a three year period. However, the adjustment was significantly reduced to \$2.8 million.

The Property Tax Administrative Fee (PTAF) outlined in Revenue and Taxation Code section 97, allows the recovery of costs that a county incurs for the administration of property tax. Gross costs are reduced by other property tax administration related revenue, such as the supplemental administrative fee revenue, to determine the net costs that can be recovered. If the supplemental administrative fee revenue is reduced, the amount of PTAF recovery can be increased. Rather than adjusting PTAF, we will reduce the supplemental administrative fee revenue to return to taxing agencies to the \$2.8 million.

SCO's Comment

The SCO agrees with the county's methodology of recovering the disallowable supplemental administrative fees of \$4.4 million through the PTAF process. As the county explained, R&T Code section 97 allows counties to recover uncollected administrative costs through the PTAF process. However, because the PTAF process does not collect from all taxing jurisdictions, the amount collected will be reduced by approximately \$1.6 million. The SCO will review the accuracy of the reduction, and verify that the remaining overcharges were refunded to the affected taxing agencies in the next audit.

**FINDING 2—
Jurisdictional changes**

The county used incorrect tax revenue exchange percentages when enabling jurisdictional changes related to the City of Huntington Beach.

The legal requirements for jurisdictional changes are found in Revenue and Taxation Code section 99. A jurisdictional change involves a change in the organization or boundaries of a local government agency or school district. Normally, these are service area or responsibility changes between the local jurisdictions. As part of the jurisdictional change, the local government agencies are required to negotiate any exchange of base-year property tax revenue and annual tax increment. After the jurisdictional change, the local agency whose responsibility increased receives an additional annual tax increment, and the base property tax revenues are adjusted according to the negotiated agreements.

Recommendation

The SCO recommends that the county review all former jurisdictional changes related to the City of Huntington Beach and ensure that the correct exchange percentages are used.

County's Response

We agree with the finding and the recommendation.

Jurisdictional changes related to the City of Huntington Beach during the audit period were reviewed and it was determined that only one, an annexation, was processed. A \$40 error was made in the over \$6 million property tax revenue subject to exchange resulting in an incorrect exchange percentage.

SCO's Comment

The SCO will review the implementation of the corrections in the next audit.

Observations

OBSERVATION 1— Qualified Electric Properties Tax Revenue Allocation

In fiscal year 2007-08, the Legislature enacted a new type of property tax for Qualified Electric Properties (QE). The State Controller's Office (SCO) and the California State Association of County Auditors, Property Tax Managers' Sub-Committee (Sub-Committee) is currently discussing the interpretation of Revenue and Taxation Code section 100.95, which governs the tax revenue allocation for QE.

There is a difference of interpretation as to whether the Education Revenue Augmentation Fund (ERAF) is entitled to a portion of the QE tax revenue. The Sub-Committee contends that if QE tax revenue is allocated to the ERAF, the State is essentially in violation of Proposition 1A. However, the SCO believes that the ERAF should be entitled to QE tax revenue pursuant to Revenue and Taxation Code section 100.95 (a)(3)(A)(i).

Revenue and Taxation Code section 100.95 (a)(3)(A)(i) states:

School entities, as defined in subdivision (f) of Section 95, shall be allocated an amount equivalent to the same percentage the school entities received in the prior fiscal year from the property tax revenues paid by the utility in the county in which the qualified property is located.

Revenue and Taxation Code section 95 (f) states:

“School entities” means school districts, community college districts, *the Educational Revenue Augmentation Fund*, and county superintendents of schools.

Therefore, the SCO cannot make a determination on the county's methodology at this time. We will follow up on this issue in the subsequent audit.

OBSERVATION 2— Redevelopment Property Tax Trust Fund

In May 2015, a court case between the cities of Chula Vista, El Cajon, Escondido, Poway, San Diego, San Marcos, and Vista versus the County of San Diego challenged the methodology in apportioning the residual balance from the redevelopment property tax trust fund. Therefore, the SCO cannot make a determination on the county's methodology at this time. We will follow up on this issue in the subsequent audit.

**Attachment—
County’s Response to
Draft Audit Report**



ERIC H. WOOLERY, CPA
AUDITOR-CONTROLLER



May 31, 2016

Ms. Elizabeth Gonzalez
Chief, Local Government Compliance Bureau
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

SUBJECT: Orange County Audit Report
Property Tax Apportionment and Allocation System
For the period July 1, 2008, through June 30, 2014

Dear Ms. Gonzalez:

This is Orange County's response to the above referenced audit report.

Finding – Supplemental Property Tax Administrative Costs

The county overcharged supplemental property tax administrative costs by approximately \$4.4 million, due to the inclusion of supplemental refunds within the computation.

Recommendation

The SCO recommends that the county recalculate the supplemental administrative fees for the audit period by removing the refund amounts and returning the overcharges to the appropriate taxing agencies.

County Response

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Finding – Jurisdictional Changes

The county used incorrect tax revenue exchange percentages when enabling jurisdictional changes related to the City of Huntington Beach.

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County Response

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If you have any questions, please contact Frank Davies at (714) 834-3015, or at frank.davies@ac.ocgov.com.

Sincerely,

for 
Eric H. Woolery, CPA
Orange County Auditor-Controller

EW/lb

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>