TULARE COUNTY

Audit Report

PROPERTY TAX APPORTIONMENT AND ALLOCATION SYSTEM

July 1, 2003, through June 30, 2006

JOHN CHIANG
California State Controller

December 2008

JOHN CHIANG
California State Controller

December 10, 2008

The Honorable Rita Woodard
Auditor-Controller/Treasurer-Tax Collector
Tulare County
221 South Mooney Boulevard, Room 101-E
Visalia, CA 93291-4593

Dear Ms. Woodard:

The State Controller's Office (SCO) audited the methods employed by Tulare County to apportion and allocate property tax revenues for the period of July 1, 2003, through June 30, 2006. The audit was conducted pursuant to the requirements of Government Code section 12468.

Our audit disclosed that the county complied with California statutes, except in the following instances:

- AB 8 factors were computed incorrectly;
- Redevelopment agencies were included in the supplemental property tax apportionment system;
- Supplemental property tax administrative costs were not documented; and
- The Educational Revenue Augmentation Fund (ERAF) was included in the unitary and operating nonunitary property tax apportionment system.

Additionally, county officials declined to provide a management representation letter stating that they had made available to SCO audit staff all worksheets, reports, files, and supporting documents related to the county's property tax apportionment and allocation system. The absence of such a letter may be considered a scope limitation to the audit. Therefore, the audit results expressed in this report are applicable only to the extent that the county provided all relevant documentation supporting its property tax apportionment and allocation system during the course of the audit, and that fraud was not involved.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk:vb

cc: Jody Martin
Joint Legislative Budget Committee
Peter Detwiler, Consultant
Senate Local Government Committee
Elvia Dias, Assistant
Senate Local Government Committee
Dixie Martineau-Petty, Secretary
Assembly Local Government Committee
Martin Helmke, Consultant
Senate Revenue and Taxation Committee
Kimberly Bott, Chief Consultant
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David Botelho, Chief
Office of State Audits and Evaluations
Department of Finance
Catherine Smith, Executive Director
California Special Districts Association

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Audit Report

Summary

The State Controller's Office (SCO) audited the methods employed by Tulare County to apportion and allocate property tax revenues for the period of July 1, 2003, through June 30, 2006.

Our audit disclosed that the county complied with California statutes for the allocation and apportionment of property tax revenues, except in the following instances:

- AB 8 factors were computed incorrectly;
- Redevelopment agencies were included in the supplemental property tax apportionment system;
- Supplemental property tax administrative costs were not documented; and
- The Educational Revenue Augmentation Fund (ERAF) was included in the unitary and operating nonunitary property tax apportionment system.

County officials declined to provide a management representation letter stating that they had made available to SCO audit staff all worksheets, reports, files, and supporting documents related to the county's property tax apportionment and allocation system. The absence of such a letter may be considered a scope limitation to the audit. Therefore, the audit results expressed in this report are applicable only to the extent that all relevant documentation supporting the county's property tax apportionment and allocation system was provided to SCO auditors during the course of the audit, and that fraud was not involved.

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 8, which established the method of allocating property taxes for fiscal year (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 operating nonunitary property from the AB 8 system. This revenue is now allocated and apportioned under a separate system.

Other legislation established an 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 constitute sufficient "permanence" or have other intrinsic qualities to guarantee payment of taxes levied against it.

- *State-Assessed Roll*—This roll contains public utility and railroad 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, legislation (SB 418) was enacted in 1985 that requires the State Controller to audit the counties' apportionment and allocation methods and report the results to the California State Legislature.

Objective, 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 systems for apportioning and allocating property tax revenues used by the county auditor and the subsystems used by the tax collector and the assessor.

We performed the following procedures.

- Performed tests to determine whether there had been any incorrect apportionment and allocation of property tax.
- 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 (TRA) 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 redevelopment agency (RDA) reports prepared by the county and verified the computations used to develop the project base amount and the tax increment distributed to the RDA.
- 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.

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, 2003, through June 30, 2006. However, we did not audit the county's financial statements. 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.

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 disclosed that, except for the items discussed in the Findings and Recommendations section of this report, Tulare County complied with California statutes for the apportionment and allocation of property tax revenues for the period of July 1, 2003, through June 30, 2006. The county should correct the items discussed in the Findings and Recommendations section.

Additionally, County officials declined to provide a management representation letter stating that they had made available to SCO audit staff all worksheets, reports, files, and supporting documents related to the county's property tax apportionment and allocation system. The absence of such a letter may be considered a scope limitation to the audit. Therefore, the audit results expressed in this report are applicable only to the extent that all relevant documentation supporting the county's property tax apportionment and allocation system was provided to SCO auditors during the course of the audit, and that fraud was not involved.

Follow-up on Prior Audit Findings

Our prior audit report, issued August 4, 2004, had no findings related to the apportionment and allocation of property tax revenues by the county.

Views of Responsible Official

We issued a draft audit report on August 8, 2007. Rita A. Woodard, Auditor-Controller/Treasurer-Tax Collector, responded by letter dated August 31, 2007 (Attachment). She agreed with the audit results with the exception of Finding 4.

Restricted Use

This report is solely for the information and use of Tulare County, the California 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
Chief, Division of Audits

December 10, 2008

Findings and Recommendations

FINDING 1—
Incorrect calculation of the AB 8 factors

The county computed its AB 8 apportionment system in error because it included redevelopment agencies' unitary and operating nonunitary revenues when computing apportionment factors. The error caused an overstatement of each redevelopment agency's revenues and an understatement of revenues for other agencies within the redevelopment projects. The error also impacted other property tax apportionment systems and subsystems.

Requirements for the apportionment and allocation of the annual tax increment (ATI) are found in Revenue and Taxation Code sections 96 through 96.5. The annual increment of property tax, which is the change in assessed value from one year to the next, is allocated to tax rate areas (TRAs) on the basis of each TRA's share of the incremental growth in assessed valuations. The tax increment is then multiplied by the jurisdiction's annual tax increment apportionment factors for each TRA. These factors were developed in the 1979-80 base year and are adjusted for jurisdictional changes. The tax increment is then added to the tax computed for the prior fiscal year to develop the apportionment for the current fiscal year.

Recommendation

The county should review the AB 8 process and identify the initial fiscal year in which the error occurred, and then correct the AB 8 factors from that fiscal year forward. In addition, the county should correct all systems impacted by the AB 8 error.

County's Response

The recommended changes have been completed.

FINDING 2—
Redevelopment agencies included in supplemental property tax

The county included redevelopment agencies in the supplemental property tax apportionment process.

The legal requirements for supplemental roll property tax apportionment and allocation are found in Revenue and Taxation Code sections 75.60 through 75.71 and 100.2. When there is a change in assessed property value due to changes in ownership or completion of new construction, the property owner is charged a supplemental property tax. This process enables the counties to retroactively tax property for the period when changes in ownership or completion of new construction occurred, rather than at the time the secured roll is developed.

Recommendation

The county should exclude redevelopment projects from the supplemental property tax apportionment process, and should adjust accordingly the apportionment factors for other agencies.

County's Response

The recommended changes have been completed.

FINDING 3—Supplemental property tax—administrative costs not documented

The county did not document supplemental property tax administrative costs before collecting the allowable fee.

Revenue and Taxation 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 county should document supplemental property tax administrative costs before collecting the allowable fee.

County's Response

> Supporting documentation for supplemental property tax administrative costs are on file in a manner that has passed all previous audits by the State Controller. We are implementing improved documentation and procedures for these costs as recommended.

FINDING 4—ERAF included in unitary and operating nonunitary apportionment

The county included the Educational Revenue Augmentation Fund (ERAF) in the unitary and operating nonunitary apportionment process when unitary and operating nonunitary assessed value grew by more than 2% over the preceding year. The ERAF is not a taxing jurisdiction and is not eligible to be included in the unitary and operating nonunitary apportionment process.

Requirements for the apportionment and allocation of unitary and operating nonunitary property taxes are found in Revenue and Taxation Code section 100.

Unitary properties are those properties on which the Board of Equalization "may apply the principle of unit valuation in valuing properties of an assessee that are operated as a unit in the primary function of the assessee" (i.e., public utilities and railroads). The Revenue and Taxation Code further states, "Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the board considers not part of the unit in the primary function of the assessee."

In FY 1988-89, the Legislature established a separate system for apportioning and allocating the unitary and operating nonunitary property taxes. The unitary and operating nonunitary base year was established and formulas were developed to compute the distribution factors for the fiscal years that followed.

Recommendation

The county should exclude the ERAF from the unitary and operating nonunitary apportionment process and adjust apportionment factors accordingly.

County's Response

> This issue is an ongoing debate statewide as the law is inconsistent. In May of 2007 the State Auditor's Association recommended all County Auditors make no changes and stay consistent in following the Property Tax Manager's Reference Manual. We will follow this recommendation until the issue is resolved by the State Legislature and there are clear, consistent codes and guidelines.

SCO's Comment

The ERAF is a fund—not a taxing jurisdiction—and should not be included in the unitary and operating nonunitary process. The finding remains as written.

Attachment—
County's Response to
Draft Audit Report

County of Tulare

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RITA A. WOODARD
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August 31, 2007

Steven Mar, Chief
Local Government Audit Bureau
State Controller's Office, Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874

Re: Response to Audit Report Letter Dated August 8, 2007 – Received August 21, 2007

Dear Mr. Mar:

The Auditor's response to the Audit Findings and Recommendations are as follows:

Finding 1) Incorrect calculation of the AB8 Factors.
Response – The recommended changes have been completed.

Finding 2) Redevelopment included in supplemental property tax.
Response – The recommended changes have been completed.

Finding 3) Supplemental property tax administrative costs not documented.
Response – Supporting documentation for supplemental property tax administrative costs are on file in a manner that has passed all previous audits by the State Controller. We are implementing improved documentation and procedures for these costs as recommended.

Finding 4) ERAF included in unitary and operating non unitary apportionment.
Response – This issue is an ongoing debate statewide as the law is inconsistent. In May of 2007 the State Auditor's Association recommended all County Auditors make no changes and stay consistent in following the Property Tax Manager's Reference Manual. We will follow this recommendation until the issue is resolved by the State Legislature and there are clear, consistent codes and guidelines.

If you have any questions or need additional information, please contact me at (559) 733-6345.

Sincerely,

RITA A. WOODARD
Auditor-Controller/Treasurer-Tax Collector

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