

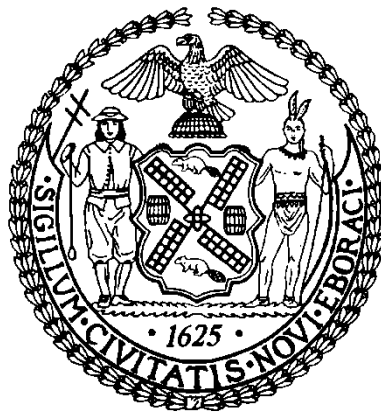
**CITY OF NEW YORK**  
**OFFICE OF THE COMPTROLLER**  
**BUREAU OF FINANCIAL AUDIT**

**John C. Liu**  
**COMPTROLLER**

Audit Report on the Reliability and Accuracy of  
Commercial Motor Vehicle Tax Data  
Administered by the Department of Finance

*7A09-101*

January 29, 2010





THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
1 CENTRE STREET  
NEW YORK, N.Y. 10007-2341

---

John C. Liu  
COMPTROLLER

**To the Residents of the City of New York:**

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office has assessed the reliability and accuracy of the Commercial Motor Vehicle Tax data administered by the Department of Finance (DOF). We audit City agencies as a means of ensuring that they carry out their responsibilities fully and efficiently.

DOF is responsible for collecting City revenues, including the Commercial Motor Vehicle Tax (CMVT) for which it handles billing and collection using vehicle registration data. The audit determined that CMVT data exists in a secure environment, is readily accessible to all essential users, is generally accurate and reliable for collection, and generally contains the required information for both enforcement and penalty collection. However, while conducting the tests that addressed the audit objectives, the auditors identified an outstanding balance of \$8 million. Included in this balance were accounts that were underpaid due to dishonored checks but that nevertheless received a tax stamp. In addition, CMVT billing periods are kept independent of each other. As a result, previous balances are not carried over to the next billing period, allowing accounts with an outstanding balance for a prior period to receive a tax stamp in subsequent periods. The audit contains five recommendations that if implemented should increase reserves and improve compliance.

The results of the audit have been discussed with DOF officials, and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

If you have any questions concerning this report, please e-mail my audit bureau at [audit@Comptroller.nyc.gov](mailto:audit@Comptroller.nyc.gov) or telephone my office at 212-669-3747.

Sincerely,

A handwritten signature in black ink, appearing to read "JCL".

John C. Liu

## *Table of Contents*

<b>AUDIT REPORT IN BRIEF</b>	1
Audit Findings and Conclusions	1
Audit Recommendations	2
<b>INTRODUCTION</b>	3
Background	3
Objectives	4
Scope and Methodology	5
Discussion of Audit Results	6
<b>FINDINGS AND RECOMMENDATIONS</b>	7
Process Control Weaknesses	7
Account Periods Are Maintained Independently	7
Outstanding Balances	7
Accounts with Dishonored Checks Received Tax Stamp	8
Overpaid Balances	9
The “\$5-Rule”	10
<b>ADDENDUM</b> Department of Finance Response	

*The City of New York  
Office of the Comptroller  
Bureau of Financial Audit  
IT Audit Division*

**Audit of the Reliability and Accuracy of  
Commercial Motor Vehicle Tax Data  
Administered by the Department of Finance**

**7A09-101**

---

**AUDIT REPORT IN BRIEF**

The Department of Finance (DOF) is responsible for collecting City revenues efficiently and encouraging compliance with City tax and other revenue laws. One such revenue, DOF collects is a Commercial Motor Vehicle Tax (CMVT). DOF collected \$47.5 million dollars in CMVT revenue for Fiscal Year 2008.

The CMVT was first levied in 1960 on vehicles used for the transportation of passengers and on all other commercial trucks and vehicles. The tax is charged at different rates. DOF administers the CMVT for the following vehicles: medallion taxicabs, non-passenger commercial motor vehicles weighing more than 10,000 pounds (and those weighing less than 10,000 pounds if they are registered outside of New York City), and all motor vehicles used for transportation of passengers that are registered outside New York City but used within the City limits. All other types of motor vehicles are handled by the State Department of Motor Vehicle (DMV). Every month, the DMV electronically forwards to DOF the data for the vehicles it registers that are subject to the CMVT. DOF handles the CMVT billing and collection process.

**Audit Findings and Conclusions**

The CMVT data exists in a secure environment and is readily accessible to all essential users identified by DOF. The CMVT data is generally accurate and reliable for collection purposes, and generally contains the required information for enforcement and penalty collection purposes. However, while conducting the tests that addressed the objectives to this audit, we identified an outstanding unpaid balance of \$8 million. Included in this balance were accounts that were underpaid due to dishonored checks but that nevertheless received a tax stamp. Also, DOF has a rule that permits a tax stamp to be issued if an account owes less than \$5. In addition, DOF does not notify account holders who have made an overpayment. Finally, CMVT billing periods are kept independent of each other. As a result, previous balances are not carried over to the next billing period, allowing accounts with an outstanding balance for a prior period to nevertheless receive a tax stamp in subsequent periods.

## **Audit Recommendations**

To address these issues, we make five recommendations, that DOF should:

- Ensure that the billing process is corrected and previous years' account balances are carried forward.
- Develop a memo of understanding with the Taxi and Limousine Commission (TLC) and New York State DMV to ensure that all CMVT revenue is collected before the TLC approves the licenses for medallions and non-medallion automobiles, thereby improving its collection of outstanding CMVT balances.
- Comply with the Rules of the City of New York, Title 19, to ensure that all uncertified checks have been converted to collectible funds before issuing a tax stamp.
- Identify and notify account holders of overpayments to allow them the opportunity to request a refund in writing to DOF.
- Determine whether the system should write off account balances of less than \$5 or carry them over to the next billing period.

# INTRODUCTION

## Background

The Department of Finance (DOF) is responsible for collecting City revenues efficiently, encouraging compliance with City tax and other revenue laws, valuing all real property in the City, providing a forum for the public to dispute tax and parking violation liability, and maintaining property records. One such revenue, DOF collects is a Commercial Motor Vehicle Tax (CMVT). DOF collected \$47.5 million dollars in CMVT revenue for Fiscal Year 2008.

The CMVT was first levied in 1960 on vehicles used for the transportation of passengers (medallion taxicabs, omnibuses, and other for-hire passenger vehicles) and on all other commercial trucks and vehicles. The tax is charged at different rates, based on the purpose for which vehicles are used (see Table I below).

**Table I**  
CMVT Tax Rate

VEHICLE CLASS	ANNUAL TAX
<b>Passenger Transportation Vehicles:</b>	
Medallion taxicabs	\$1,000
All other vehicles <sup>(a)</sup>	\$400
<b>Non-passenger Motor Vehicles with a Maximum Gross Weight:</b>	
Of 10,000 pounds or less	\$40
Vehicles with NYS registration code 26 <sup>1</sup>	\$40
10,001 to 12,500 pounds	\$200
12,501 to 15,000 pounds	\$275
15,001 pounds or more	\$300

(a) Motor vehicles for the transportation of passengers that are non-medallion cabs (e.g., livery, omnibus) paid a flat rate of \$400.

The CMVT is an annual tax for the tax year that runs from June 1 to May 31. Generally, returns must be filed by June 20. Medallion taxicabs may pay the tax in two \$500 installments, in June and December. All other owners are required to pay in full by June 20. The CMVT non-medallion tax rate is based on the type and maximum gross weight of the vehicle. If the first taxable use of a medallion taxi occurs on or after March 1, or the first taxable use of a non-medallion vehicle occurs on or after December 1 and before March 1, the tax is prorated accordingly.

The CMVT is paid by owners of non-passenger commercial motor vehicles that are used primarily in New York City (50% or more of a vehicle's annual mileage is within the City) or in connection with a business carried on in the City, and by owners of vehicles that are used regularly in the City for the transportation of passengers, such as taxicabs. The New York State

---

<sup>1</sup> Examples: tractor crane, road building machine and power shovels.

Department of Motor Vehicle (DMV) identifies the vehicles that are subject to the CMVT. Those vehicles are known as medallion or non-medallion. Exemptions from the CMVT include motor vehicles used exclusively for transportation of persons in connection with funerals or vehicles used for the transportation of children to and from day camps that are operated by non-profit organizations and that are owned, operated, or leased for that exclusive use.

DOF administers the CMVT for the following vehicles: medallion taxicabs, non-passenger commercial motor vehicles weighing more than 10,000 pounds (and those weighing less than 10,000 pounds if they are registered outside of New York City), and all motor vehicles used for transportation of passengers that are registered outside New York City but used within the City limits. All other types of motor vehicles are handled by the DMV.

Every month, the DMV electronically forwards to DOF the data for the vehicles it registers that are subject to the CMVT. The data is maintained and supported by DOF in Fairtax, a mainframe application. DOF handles the CMVT billing and collection process. For existing accounts, for example, medallion taxicabs, billing takes place in April, with payment due no later than June 20. The account's next bill is sent between October and November, with payment due in December.

When payment is made by check, the check is mailed to a lockbox at the post office to be administered by the Bank of America. The Bank of America processes the payments through its bank and sends an electronic file to DOF listing the amount of payment processed for each account. This information is updated by DOF in the Fairtax system bi-weekly. Any error in the account information needs to be identified by the taxpayer, who must notify the DMV and provide the correct account information to have the account updated accordingly. Once the DMV updates the account with the correct information, it forwards this new information to DOF. Once the levy is satisfied, DOF issues a tax stamp. Accounts that are delinquent are subject to levies of penalties and interest, which are calculated by Fairtax. Any delinquent account is sent two notices by DOF, informing the account holder of the overdue balance. If the account is still delinquent after the two notices are sent, DOF forwards the account to its Collection unit to initiate formal collection procedures.

### **Objectives**

The objective of this audit was to determine whether the CMVT data:

1. Exists in a secure environment and is readily accessible to all essential users.
2. Is sufficiently reliable for the purposes of collection, and contains the required information for enforcement and penalty collection purposes.

## **Scope and Methodology**

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. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

Our fieldwork was performed from October 2008 to August 2009. To achieve our audit objectives we:

- Interviewed various DOF officials from the Payment Operations unit, the Collections unit, and the Finance Information Technology unit;
- Conducted a system walk-through on November 5, 2008, to gain an understanding of the administration of the CMVT;
- Reviewed and analyzed DOF *Security Guidelines and Policy and Standard Operating Procedures Mainframe Security Policy* to determine whether DOF policy and procedures provide adequate security controls;
- Analyzed DOF Fairtax training manuals regarding CMVT data to gain an understanding of the tasks conducted in its daily operations to administer this tax;
- Assessed the New York State Comptroller's audit report, *Controls over the Fairtax Computer System*, issued on November 6, 2007, to determine whether DOF has adequate access controls;
- Requested a list of all CMVT users to determine whether access privileges were appropriate, and whether CMVT data is readily accessible to all essential personnel; and
- Compare the CMVT users with the City's Payroll Management System to determine whether these users are authorized active employees.

We received from DOF the CMVT data file on April 17, 2009, for medallion and non-medallion billings for billing years 2006 to 2008. The last effective date of the data file was March 17, 2009. We performed several frequency distributions to identify duplicate data and created a separate data file with no duplicate data. Using this file, to determine the accuracy of the data<sup>2</sup>, we:

---

<sup>2</sup> All of our tests were based on the data that we received for billing years 2006 to 2008.



- Performed queries to ascertain whether critical data was missing, including vehicle weight, owner’s business address, and license plate number, which are needed for billing and collection purposes;
- Tested for future or invalid dates;
- Compared the non-medallion vehicle weights with the taxes charged to identify any discrepancies;
- Recreated the formula used to calculate penalties on delinquent accounts to verify its accuracy;
- Ran queries for all outstanding balances for medallion and non-medallion accounts that noted a dishonored-check penalty (returned for insufficient funds) to determine whether a tax stamp was issued for these accounts;
- Identified and examined all accounts that noted an overpayment of the levy to determine how many taxpayers had made an overpayment and had requested a refund; and
- Identified and examined all accounts underpaid by less than \$5.

As criteria, we used the City’s Department of Information Telecommunications and Technology *Citywide Information Security Directives and Policies*, the National Institute of Standards and Technology *Generally Accepted Principles and Practices for Securing Information Technology System*, and the New York City Comptroller’s Internal Control and Accountability Directive #18, “Guidelines for the Management, Protection and Control of Agency Information and Information Processing Systems.”

### **Discussion of Audit Results**

The matters covered in this report were discussed with DOF officials during and at the conclusion of this audit. A preliminary draft report was sent to DOF officials and was discussed at an exit conference held on November 5, 2009. On December 2, 2009, we submitted a draft report to the DOF officials with a request for comments. We received a written response from DOF on December 16, 2009. In their response, DOF officials agreed with three recommendations, partially agreed with one recommendation, and disagreed with one recommendation.

The full text of the DOF response is included as an addendum to this final report.

## **FINDINGS AND RECOMMENDATIONS**

The CMVT data exists in a secure environment and is readily accessible to all essential users identified by DOF. CMVT data is generally accurate and reliable for collection purposes, and generally contains the required information for enforcement and penalty collection purposes. However, while conducting the tests that addressed the objectives to this audit, we identified an outstanding unpaid balance of \$8 million. Included in this balance were accounts that were underpaid due to dishonored checks but that nevertheless received a tax stamp. Also, DOF has a rule that permits a tax stamp to be issued if an account owes less than \$5. In addition, DOF does not notify account holders who have made an overpayment. Finally, CMVT billing periods are kept independent of each other. As a result, previous balances are not carried over to the next billing period, allowing accounts with an outstanding balance for a prior period to receive a tax stamp in subsequent periods.

### **Process Control Weaknesses**

When analyzing the CMVT data file and conducting our tests to address the objectives of this audit, we found that data for CMVT account periods are kept independent for each billing cycle period. As a result, previous balances are not carried over to the next billing period. We found an outstanding balance of \$8 million from prior periods and underpayments due to dishonored checks. In addition, DOF officials are not required to inform taxpayers if they are entitled to a refund. Finally, DOF has a rule that permits a tax stamp to be issued if an account owes less than \$5 dollar.

#### **Account Periods Are Maintained Independently**

While reviewing CMVT data, we noted that delinquent balances from previous billing periods are not carried over to the next billing period. For example, account holders whose accounts are delinquent for the period of 2006 are allowed to send a payment for the period of 2007 (leaving the outstanding 2006 balance unpaid) and still receive a tax stamp for 2007 from DOF. The Fairtax CMVT program was designed to keep each account's billing periods separate from each other. DOF's practice of not carrying over an account's delinquent balance from a previous period and, nevertheless, issuing a tax stamp in subsequent periods encourages taxpayers not to pay delinquent account balances.

#### **Outstanding Balances**

During our testing period, we uncovered an outstanding balance of taxes equaling \$8 million for the period covering 2006 through 2008. The highest dollar value for any one account was \$748, with an average delinquent balance of \$415.

Taxpayers who have not paid their CMVT within 60 days receive a Notice of Tax Due. If the Notice of Tax Due is not paid within 30 days from its mailing date, DOF issues a Notice of Determination. If the Notice of Determination is not paid within 90 days from its mailing date, DOF forwards the delinquent accounts to its Collections unit. The Collections unit initiates a dunning process through auto dial telephone calls. When the DOF Collections unit reviews the

delinquent accounts, it determines whether to issue a warrant. When a warrant is issued, the Collections unit can then take enforcement action. New York State law permits DOF to issue a warrant for collection of delinquent accounts for previous six years.

According to a Collections unit official, the unit deals with all City taxes administered by DOF, not only the collection of outstanding CMVT amounts. The Collections unit has been focusing on debt with much higher average balances that is owed the City. DOF officials also stated that a large percentage of the delinquent taxpayers with multiple outstanding balances have out-of-state license plates.

**Accounts with Dishonored Checks Received Tax Stamp**

As previously stated, those with CMVT accounts who pay by check submit their payments to the Bank of America. The Bank of America processes these payments and then sends an electronic file to DOF with all the accounts for which payment has been submitted. Once DOF receives the payment file from the Bank of America, it issues a tax stamp to the respective account holders. There are instances when the account holder’s check is returned without being paid. In these cases, the Bank of America sends the information to DOF, where authorized DOF personnel log onto Fairtax, find the transaction, and designate the account as unpaid. DOF will send an uncollected fund notice to the payer, charging an additional \$20 penalty for the unpaid check and late fees and interest to the unpaid account.

While performing our data test, we discovered that once the Bank of America forwards to DOF the file of an account holder who submitted a payment, DOF issues a tax stamp. However, DOF does not allocate sufficient time for the check to be processed before issuing the tax stamp. As a consequence, DOF issues a tax stamp to delinquent accounts. (Tables II and III show the number of accounts that were unpaid as a result of a dishonored check and that received a tax stamp).

According to the Rules of the City of New York, Title 19, §6-08, “Payment of Tax,” “Where payment is made by uncertified check, the Commissioner of Finance may withhold issuance of the stamp or other indicia or payment prescribed until the check has been converted into collectible funds.”

**Table II**  
Medallion Accounts  
Outstanding Balance Due to an Unpaid Check

<b>Medallion Account Period</b>	<b># of Unpaid Checks</b>	<b>Total <sup>(a)</sup></b>
June 1, 2006 and December 1, 2006	6	\$3,435.97
June 1, 2007 and December 1, 2007	12	\$7,134.48
June 1, 2008 and December 1, 2008	38	\$20,531.05
Total	56	\$31,101.50

**Table III**  
Non-Medallion Accounts  
Outstanding Balance Due to an Unpaid Check

<b>Non-Medallion Account Period</b>	<b># of Unpaid Checks</b>	<b>Total <sup>(a)</sup></b>
June 1, 2006 to May 31, 2007	12	\$3,025.19
June 1, 2007 to May 31, 2008	60	\$18,252.31
June 1, 2008 to May 31, 2009	55	\$17,571.66
Total	127	\$38,849.16

(a) The amount for that particular period.

**Overpaid Balances**

DOF officials are not required to inform account holders if they are entitled to a refund. Those with an overpaid account have only a year to request a refund by filing a request in writing to DOF. During our tests, we discovered 8,639 accounts that have overpaid a total of \$1,017,318.85, as shown on Tables IV and V, below. The amount of the overpayments ranged from \$0.01 to \$3,000.

**Table IV**  
Overpaid Medallion Accounts

<b>Medallion Account Period</b>	<b># of Records</b>	<b>Total</b>
June 1, 2006 and December 1, 2006	661	\$114,654.07
June 1, 2007 and December 1, 2007	252	\$33,655.92
June 1, 2008 and December 1, 2008	216	\$23,578.73
Total	1129	\$171,888.72

**Table V**  
Overpaid Non-Medallion Accounts

<b>Non-Medallion Account Period</b>	<b># of Records</b>	<b>Total</b>
June 1, 2006 to May 31, 2007	2472	\$335,577.12
June 1, 2007 to May 31, 2008	3259	\$341,236.71
June 1, 2008 to May 31, 2009	1779	\$168,679.30
Total	7510	\$845,493.13

However, we found that 357 out of 8,639 overpaid accounts have a balance of \$69,290.60. At the same time, these 357 accounts also have outstanding balances from prior periods of \$151,492.42. If the account billing periods are linked, the outstanding balances could be reduced to \$82,201.82 (\$151,492.42 - \$69,290.60).

**Table VI**  
Overpaid Accounts That Also Have Outstanding Balances

<b>Accounts</b>	<b># of Overpaid Accounts</b>	<b>(A) Overpaid Balances</b>	<b>(B) Outstanding Balances</b>	<b>(B – A) Remaining Balances</b>
Medallion	39	\$7,790.79	\$35,838.16	\$28,047.37
Non-Medallion	318	\$61,499.81	\$115,654.26	\$54,154.45
Total	357	\$69,290.60	\$151,492.42	\$82,201.82

**The “\$5-Rule”**

One business rule for the collection of the CMVT is the “\$5-rule.” If an account is underpaid by less than \$5, DOF issues the tax stamp and does not bill the account for the small remaining outstanding balance. Any accounts owing more than \$5 will not receive a tax stamp and will be billed for the outstanding balance. However, the Fairtax system shows an account with a balance of less than \$5 as underpaid, even when DOF does not bill the account holder and has already issued a tax stamp.

**Recommendations**

DOF should:

1. Ensure that the billing process is corrected and previous years’ account balances are carried forward.

**DOF Response:** DOF agreed with this recommendation.

2. Develop a memo of understanding with the Taxi and Limousine Commission and New York State DMV to ensure that all CMVT revenue is collected before the TLC approves the licenses for medallions and non-medallion automobiles thereby improving its collection of outstanding CMVT balances.

**DOF Response:** DOF partially agreed with this recommendation and stated, “Finance’s Collections division will, going forward, regularly share a tax-warrant file with TLC.”

3. Comply with the Rules of the City of New York, Title 19, to ensure that all uncertified checks have been converted to collectible funds before issuing a tax stamp.

**DOF Response:** DOF disagreed with this recommendation and stated, “First, City rules do not require this. In fact, City rules are explicit that Finance is not obligated to withhold the CMVT tax stamp for payments with uncertified checks. Specifically, §6-08 of Title 19 says that when an uncertified check is used as payment, ‘the Commissioner of Finance may withhold issuance’ of the tax stamp.

Second, this recommendation is unworkable. In recent years, the agency has actually sought more ways for taxpayers to pay, with very positive results. Certified checks are not required for any other tax payment, including taxes and fees, where the public owes far larger amounts than the average CMVT payment. The agency cannot afford to add the burdensome step of requiring payment by certified check - or forcing a taxpayer to return while we wait for an uncertified check to clear. The draft report specifies the actual incidence of uncollectible CMVT checks over the three years examined by auditors: during that time, 183 checks for approximately \$70,000 ‘bounced’ - or less than 1/20th of 1% of the total amount of tax collected. The rare occurrence further underscores why current policy on such checks should be maintained.”

**Auditor Comment:** The Rules of the City of New York, Title 19, §6-08, “Payment of Tax,” state “Where payment is made by uncertified check, the Commissioner of Finance may withhold issuance of the stamp or other indicia or payment prescribed until the check has been converted into collectible funds.” However, as noted, DOF does not allocate sufficient time for the check to be processed before issuing the tax stamp. As such, checks were uncollectable although a tax stamp was already issued. It is this weakness in controls over issuance of the tax stamp that we call into question. Our recommendation resolves the problem without expending any additional cost and provides no great burden to Finance. Further, by allowing this action to occur Finance does not create a level playing field and could be considered unfair to clients that do not “bounce” checks.

4. Identify and notify account holders of overpayments to allow them the opportunity to request a refund in writing to DOF.

**DOF Response:** DOF agreed with this recommendation.

5. Determine whether the system should write off account balances of less than \$5 or carry them over to the next billing period.

**DOF Response:** DOF agreed with this recommendation.



David M. Frankel  
Commissioner

1 Centre Street – Suite 500  
New York, NY 10007

1.212.669.4855 tel  
1.212.669.2275 fax

December 16, 2009

John Graham  
Deputy Comptroller  
Audits, Accountancy and Contracts  
One Centre Street, 5<sup>th</sup> Floor  
New York, NY 10007  
*Sent via e-mail:* [jgraham@comptroller.nyc.gov](mailto:jgraham@comptroller.nyc.gov)

**Re: Audit of the Reliability and Accuracy of Commercial Motor Vehicle Tax  
Data by the Department of Finance (7A09-101)**

Dear Mr. Graham:

Thank you for the opportunity to provide the Department of Finance's official response to the above-referenced draft audit, dated December 2, 2009.

Let me first acknowledge the fine work of Vince Liquori and the team of auditors who conducted this audit of the Commercial Motor Vehicle Tax (CMVT). As I underscored when you and I met recently, Finance generally welcomes the opportunity to be audited on its programs. We very much appreciate that this audit was conducted efficiently and professionally.

The following responds to each of your recommendations:

**Recommendation 1: Ensure that the billing process is corrected and previous years' account balances are carried forward.**

*Finance agrees.*

Given the relatively small amount of CMVT that is collected by the agency (\$47.5 million in FY08) and the low delinquency rate (5%), the agency had not focused on past due balances. Going forward, we will change this policy as part of our plan to "level the playing field," and in the hope and expectation that the change may indeed further increase both revenue and compliance. Allowing taxpayers with outstanding debts to receive a CMVT tax stamp does not create a level playing field and is not fair.

We will monitor changes in revenue and compliance as a result of this change as part of our Audit Implementation Plan.

Graham Response Letter, Audit 7A09-101

Page 2

**Recommendation 2: Develop a memo of understanding with the Taxi and Limousine Commission and NYS DMV to ensure that all CMVT are collected before TLC approves the licenses for medallions and non-medallion automobiles thereby improving its collection of outstanding CMVT balances.**

*Finance partially agrees.*

We strongly agree with the spirit of this recommendation, but given our response to Recommendation #1, a memo of understanding is not necessary. When vehicles come in for their safety inspections, Finance's denial of a licensee's CMVT tax stamp will automatically alert the Taxi and Limousine Commission (TLC) that a medallion license should not be renewed.

Worth noting here is that the NYS DMV separately collects the CMVT for the 35,000 non-medallion City "livery" cabs. So while CMVT collection for non-medallion cabs is not now our agency's responsibility, we do understand that DMV currently denies the vehicle registration of these cabs for non-payment of CMVT. We should also point out that the TLC has no licensing jurisdiction over the far larger number of non-medallion vehicles (trucks and out-of-city taxis) that pay CMVT.

So even while medallion cabs make up a limited universe of CMVT payers, Finance's Collections division will, going forward, regularly share a tax-warrant file with TLC. Our new Deputy Commissioner for Operations, Andrew Salkin, who recently joined us from TLC, will be spearheading this new coordination effort with his former agency.

**Recommendation 3: Comply with the Rules of the City of New York, Title 19, to ensure that uncertified checks have been converted to collectible funds before issuing a tax stamp.**

*Finance disagrees.*

First, City rules do not require this. In fact, City rules are explicit that Finance is not obligated to withhold the CMVT tax stamp for payments with uncertified checks. Specifically, §6-08 of Title 19 says that when an uncertified check is used as payment, "the Commissioner of Finance may withhold issuance" of the tax stamp.

Second, this recommendation is unworkable. In recent years, the agency has actually sought more ways for taxpayers to pay, with very positive results. Certified checks are not required for any other tax payment, including taxes and fees, where the public owes far larger amounts than the average CMVT payment. The agency cannot afford to add the burdensome step of requiring payment by certified check – or forcing a taxpayer to return while we wait for an uncertified check to clear. The draft report specifies the actual incidence of uncollectible CMVT checks over the three years examined by auditors: during that time, 183 checks for approximately \$70,000 "bounced" – or less than 1/20th of 1% of the total amount of tax collected. The rare occurrence further underscores why current policy on such checks should be maintained.



Graham Response Letter, Audit 7A09-101  
Page 3

**Recommendation 4: Identify and notify account holders of overpayments to allow them the opportunity to request a refund in writing to DOF.**

*Finance agrees*

We agree with the findings that there are some 8,600 CMVT taxpayers who have some \$1.1 million in overpayments due them. We are currently evaluating our options on how to best notify and credit them their overpayments.

**Recommendation 5: Determine whether the system should write-off account balances of less than \$5 or carry over the balance to the next billing period.**

*Finance agrees*

We have already put this recommendation into action. It is now agency policy to routinely write-off any account with a balance below \$5.

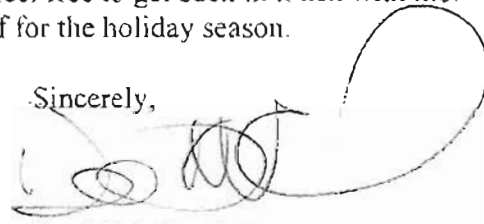
**Conclusion**

As we have outlined above, this audit has proven helpful to us, and not only for recommendations with which we have largely agreed.

This audit has illustrated how external audits of the agency can be conducted in a collegial and effective way. With an unprecedented number of City Comptroller audits of this agency now open, I do hope that the conduct of this audit team and its constructive recommendations set a new high standard. That is, we hope this audit will be as helpful to your office -- and other audit teams -- as it has proven to us.

Thank you and if you have any questions, please feel free to get back in touch with me. In the meantime, best wishes to you and your staff for the holiday season.

Sincerely,



David M. Frankel  
Commissioner

- C: Jeffrey Kay, Mayor's Office of Operations  
George Davis III, Mayor's Office of Operations  
Rochelle Patricof, First Deputy Commissioner, Finance  
Andrew Salkin, Deputy Commissioner, Operations  
Leslie Zimmerman, Assistant Commissioner – Payment Operation  
Dara Jaffee, Assistant Commissioner – Legal Affairs  
Chris Browne, Senior Government Affairs Director

DMF:cb