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OFFICE OF THE COMPTROLLER
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AUDIT

BUREAU OF AUDIT

August 30, 2016

By Hand Delivery

Commissioner Jacques Jiha, Ph.D.
New York City Department of Finance
1 Centre Street, Room 500
New York, NY 10007

Re: Final Letter Report on the Follow-Up Review of the Removal of School Tax Relief Exemptions for the Ineligible Properties Identified in Our Recent Audit of the New York City Department of Finance – SR17-067SL

Dear Commissioner Jiha:

This Final Letter Report summarizes the findings of our follow-up review of the New York City Department of Finance's (DOF's) removal of the School Tax Relief exemption (STAR) and the Enhanced School Tax Relief exemption (ESTAR) from ineligible properties identified in our *Audit Report on the New York City Department of Finance's Administration of the School Tax Relief Program* (Audit #FM15-070A) issued on June 17, 2015. As discussed in that audit report, DOF allowed owners of 1,509 properties to receive STAR or ESTAR exemptions for which they were not eligible. As a result, \$422,520 in property tax revenue was not collected during Fiscal Year 2015. In the prior report, we recommended that DOF verify the ownership of 1,355 properties and remove the STAR or ESTAR exemptions from properties found to be owned by corporate entities or LLCs. We also recommended that DOF review 154 properties that were classified for other than residential use that were receiving STAR or ESTAR exemptions.

This follow-up review was conducted in accordance with Chapter 5, §93 of the New York City Charter.

Background

DOF is responsible for implementing and monitoring tax benefits granted under the New York State School Tax Relief Program, which provides a partial exemption from school taxes for owner-occupied primary residences. The exemption appears as a reduction on the property's assessed value, which is used to determine the amount of property tax due. There are two types of School Tax Relief exemptions. Pursuant to Section 425 of the New York State Real Property Tax Law (RPTL), a homeowner may obtain either a STAR or an ESTAR exemption, but not both at the same time. The ESTAR exemption is only available to homeowners who are 65 or older at the end of the calendar year in which the exemption begins.

To be eligible for the STAR or ESTAR exemption, homeowners must satisfy several criteria, including that the property must be a one-to-three family home, condominium or cooperative apartment and that it must be used as the claiming owner's primary residence. Also, the combined income of resident owners of a property cannot exceed the maximum income limit. For Fiscal Year 2015 (July 1, 2014, to June 30, 2015) the combined income of resident owners and their spouses could not have been more than \$500,000 for an applicant to be eligible for a STAR exemption and could not have been more than \$81,900 for an ESTAR exemption. All applications must have been submitted by March 15, 2014 in order for the exemption to begin on July 1, 2014. As of July 1, 2014, there were 491,149 New York City homeowners who received either the STAR or ESTAR exemption for Fiscal Year 2015. These are the only property tax exemptions fully reimbursed by New York State.

As noted above, on June 17, 2015, we issued the *Audit Report of the New York City Department of Finance's Administration of the School Tax Relief Program* (Audit #FM15-070A), in which we identified 1,509 properties whose owners improperly received STAR or ESTAR exemptions, which resulted in \$422,520 in property tax revenue going uncollected. In its response to that audit, DOF generally agreed with our findings and stated that with regard to the 1,355 properties owned by either a corporation or LLC:

[DOF] completed research for the 1,355 properties. We found that 15% of these properties were eligible for STAR. In some cases, the owner of the property was an LLC, but the owner of the coop unit that receives the STAR exemption was an individual. In other cases, the deed indicated that the owner was an individual. The remaining 85% (1,152) of these properties were ineligible. The exemption was removed for these properties for FY16.

With regard to the 154 properties classified as non-residential that were receiving the STAR or ESTAR exemption, DOF stated in its response that the exemption would be removed from 141 of these properties; the remaining 13 were found to be eligible.

Removal of STAR Exemptions for Ineligible Properties

In this follow-up to Audit #FM15-070A and DOF's response, we reviewed the tax bills that DOF issued on June 5, 2015, for Fiscal Year 2016, and June 3, 2016, for Fiscal Year 2017, for the properties we identified as improperly receiving the STAR or ESTAR exemptions to determine whether the exemptions were removed as indicated in DOF's response. Our review found that DOF had removed the STAR or ESTAR exemption from 246 of the 1,355 properties that our audit identified as ineligible due to corporate or LLC ownership. We also found that an additional 294 properties are currently owned by individuals, and as a result, now appear to meet the ownership eligibility requirement for the exemption.

However, we found that DOF did not remove the STAR or ESTAR exemptions from 807 properties that, according to the current deeds in DOF's Automated City Register Information System (ACRIS), are still owned by corporations or LLCs. Further, DOF did not remove the STAR or ESTAR exemptions from 8 additional properties with no deeds on file in ACRIS that DOF's June 2015 and June 2016 quarterly tax bills show are owned by corporate or LLC entities. These

815 properties received a total of \$713,454 in STAR or ESTAR exemptions in Fiscal Years 2016 and 2017.

When presented with the preliminary findings of our review, DOF officials explained that they needed to further investigate the ownership status of these 815 properties that, according to the current deeds and tax bills on file with DOF, are owned by corporations or LLCs. Given the amount of lost tax revenue from exemptions being incorrectly granted to these properties, we urge DOF to devote the resources necessary to correct the errors.

DOF did remove the STAR/ESTAR exemptions from 152 of the 154 properties with a non-residential building class designation. However, we note that in its response to the original audit DOF stated that its investigation found 13 of the 154 properties were eligible for the exemption.

Agency Response

DOF in its response stated that it “appreciates the opportunity to respond to the findings and recommendations included in the above-referenced Draft Letter Report dated August 11, 2016.”

The full text of DOF’s response is included as an addendum to this letter report.

Recommendation

- 1) DOF should immediately complete any outstanding reviews of the 815 properties we identified in this follow-up review and remove the STAR/ESTAR exemptions from all ineligible properties.

DOF Response: “DOF agrees. DOF is in the process of completing its outstanding review of properties identified as owned by corporate entities. Immediately following the review, DOF will notice the affected corporations or LLCs of their ineligibility. After noticing the ineligible corporations or LLC’s, DOF will remove the exemption from the affected properties by the next assessment roll (the next opportunity to revoke STAR benefits).

As stated in our letter dated August 4, 2016, when your audit of Finance’s Administration of the School Tax Relief Program (#FM15-070A) was finalized, DOF found that 1152 properties of the group identified by the Comptroller’s office were not eligible for the exemption and that the STAR exemption had been removed for these properties. This finding was based on a review of samples of ownership information in ACRIS and DOF’s Real Property Assessment Database (RPAD). However, during this review DOF also found properties with both an Employee [*sic*] Identification Number (EIN) and Social Security Number (SSN), potentially making them eligible for STAR. In order to definitively confirm eligibility, we decided additional research was needed. The exemption, therefore, was not removed for the majority of the properties identified in the audit.

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We have been reviewing our processes to ensure that the procedures are accurate and have appropriate quality controls. This is part of a larger effort to have accurate, efficient procedures in place for reviews of both personal exemption applications and renewals. The new procedures will ensure the STAR is removed for ineligible properties by the next assessment roll (the next opportunity to revoke STAR benefits). Additionally, DOF is working with the Law Department to ensure that inappropriate prior-year benefits to business owners are recouped.”

The full text of DOF’s response is included as an addendum to this letter report.

Sincerely,



Marjorie Landa

Attachment

- c: Samuel Mayer, Senior Director of Internal Audit
- Celia Carino, Director of Internal Audit
- Sean Marani, Senior Internal Auditor
- Mindy Tarlow, Director, Mayor’s Office of Operations
- George Davis, III, Deputy Director, Mayor’s Office of Operations



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Jacques Jiha, Ph.D.
Commissioner

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August 18, 2016

Ms. Marjorie Landa
Deputy Comptroller for Audit
Office of the City Comptroller
1 Centre Street, Room 1100 North
New York, NY 10007

Re: Draft Letter Report on the Follow-Up Review of the Removal of School Tax Relief Exemptions for the Ineligible Properties Identified In Our Recent Audit of the New York City Department of Finance –SR17-067SL.

Dear Deputy Comptroller Landa,

The Department of Finance (DOF) appreciates the opportunity to respond to the findings and recommendation included in the above-referenced Draft Letter Report dated August 11, 2016. Our response to your recommendation is detailed below.

Response to Recommendation

1. **DOF should immediately complete any outstanding reviews of the 815 properties we identified in this follow-up review and remove the STAR/ESTAR exemption from all ineligible properties.**

DOF agrees. DOF is in the process of completing its outstanding review of properties identified as owned by corporate entities. Immediately following the review, DOF will notice the affected corporations or LLCs of their ineligibility. After noticing the ineligible corporations or LLC's, DOF will remove the exemption from the affected properties by the next assessment roll (the next opportunity to revoke the STAR benefits).

As we stated in our letter dated August 4, 2016, when your audit of Finance's Administration of the School Tax Relief Program (#FM15-070A) was finalized, DOF found that 1152 properties of the group identified by the Comptroller's office were not eligible for the exemption and that the STAR exemption had been removed for these properties. This finding was based on a review of samples of ownership information in ACRIS and DOF's Real Property Assessment Database (RPAD). However, during this review DOF also found properties with both an Employee Identification Number (EIN) and Social Security Number (SSN), potentially making them eligible for STAR. In order to definitively confirm eligibility, we decided additional research was needed. The exemption, therefore, was not removed for the majority of the properties identified in the audit.

We have been reviewing our processes to ensure that the procedures are accurate and have appropriate quality controls. This is part of a larger effort to have accurate, efficient procedures in place for reviews of both personal exemption applications and renewals. The new procedures will ensure that STAR is removed for ineligible properties by the next assessment roll (the next opportunity to revoke STAR benefits). Additionally, DOF is working with the Law Department to ensure that inappropriate prior-year benefits to business owners are recouped.

Thank you for your consideration in the matter. Please do not hesitate to contact me with any further questions or recommendations.

Sincerely,



Pierre Dejean, Assistant Commissioner

C: Michael Hyman, First Deputy Commissioner
Timothy Sheares, Deputy Commissioner
Sam Mayer, Senior Director, Internal Audit
Doreen Berksteiner, Deputy Director, Homeowner Tax Benefits