

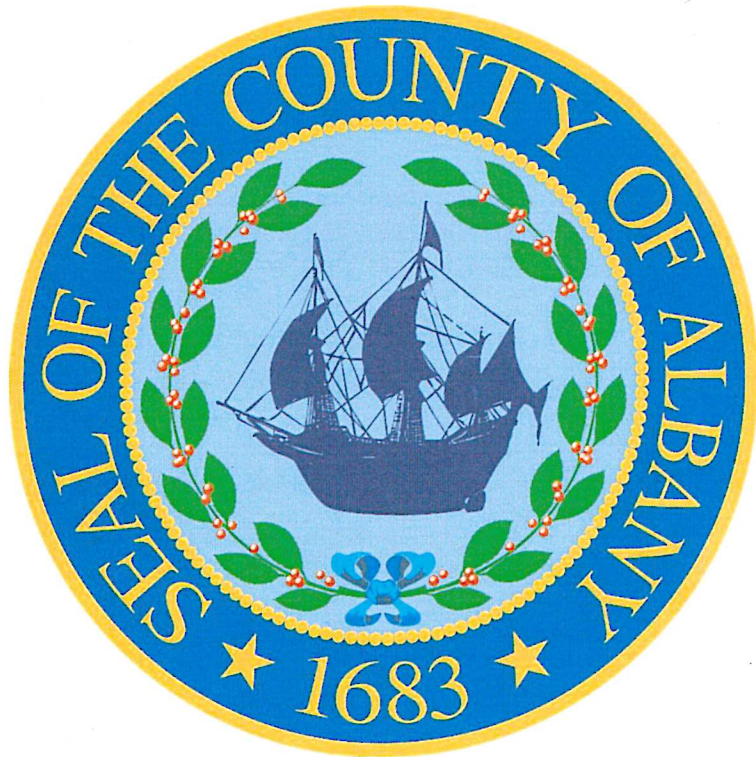
ALBANY COUNTY

Department of Audit and Control

Final Report

Hotel Occupancy Tax Audit

Spring 2020



August 2020

Susan Rizzo, Comptroller

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Background

The Albany County Comptroller's Office, Department of Audit and Control (DAC) performed an audit of records related to occupancy tax collected by hotels and motels within Albany County. New York State and Local Laws¹ grant Albany County the authority² to impose and collect taxes on occupancy of hotel and motel rooms in Albany County and provides for the structure for the distribution of the funds collected. Occupancy tax collected equals six percent (6%) of the per diem rental rate charged to occupants for each hotel or motel room. The whole of the monies collected are distributed as follows:

- Albany Convention Center Authority Fund – 50%
- Times Union Center (Civic Center) Debt Service Fund – 33%
- Albany County Convention and Visitors Bureau – 17%
 - Up to ten percent of this amount is retained by Albany County to offset the administrative expenses related to the occupancy tax.

The table below details occupancy tax collections for the first two quarters of 2020.

Collections Q1 & Q2 2020				
	2019	2020	Variance	
Ist Quarter Collections	\$ 1,387,618	\$ 1,389,304	\$ 1,686	0.12%
Late Payments	\$ -	\$ 301,367		
2nd Quarter Collections	\$ 2,096,337	\$ 586,482	\$ (1,509,909)*	-72.03%
Total	\$ 3,483,955	\$ 2,277,154		
*Auditor's Note: The variance in the 2nd quarter of 2020 is largely due to the COVID-19 crisis which resulted in a substantial decrease in hotel occupancy.				

Hotel and motel operators are required to keep current and accurate records of exempt and non-exempt revenue. Additionally, quarterly returns, with payment in full, must be filed in a timely manner through the Albany County Department of Finance. A penalty is imposed for the late filing of a quarterly return in the amount of five percent of the total amount owed for the first month past due. An additional one percent of the original amount due is assessed at the start of each additional month past due. During the second month past due, a notice will be delivered stating that the operator must file the past due return (with

¹ Local Law No. 3 for 1980 as amended by Local Law No. 8 for 1981, Local Law No. 3 for 1986, Local Law No. 3 for 2005, Local Law No. 11 for 2006, Local Law No. 8 for 2009, Local Law No. 10 for 2010, Local Law No. 2 for 2012, Local Law No. 4 for 2014 and Local Law No.8 for 2016 pursuant to Chapter 693 of the Laws of 1980 of the State of New York, Chapter 375 of the Laws of 1985 of the State of New York, Chapter 531 of the Laws of 2005 of the State of New York, Chapter 194 of the Laws of 2006 of the State of New York, Chapter 105 of the Laws of 2009 of the State of New York, Chapter 401 of the Laws of 2010 of the State of New York, Chapter 312 of the Laws of 2012 of the State of New York, Chapter 228 of the Laws of 2014 of the State of New York, Chapter 452 of the Laws of 2016 of the State of New York and Chapter 134 of the Laws of the State of New York and Chapter 58 of the Laws of the State of New York.

² Authority is granted for a term of two years and must be renewed by resolution through the Albany County Legislature.

payment) within 30 days to avoid the issuance of a warrant and lien against the property. Additional penalties are imposed for misclassification of exempt revenue in the amount of five percent of the amount owed as a result of the misclassification, and one percent per month from the date the original return and payment was due. Specific flat rate penalties are imposed in the amount of one thousand dollars for the following issues as observed during the audit process:

- Non-compliance with audit in terms of scheduling and participation with auditors;
- Failure to have tax certificate displayed in the appropriate manner as required; and/or
- Operating an unregistered hotel or motel.

Objectives

- Confirm and record relevant financial and non-financial details:
 - Bank of record;
 - Accounting software used;
 - Number of rooms and rates charged; and
 - Current year occupancy rate.
- Confirm that the hotel or motel is registered and is in compliance with tax certificate display requirements;
- Determine whether operator has accurately classified exempt and non-exempt revenue;
- Ensure that records provided related to exempt revenue are substantiated with appropriate documentation;
- Determine amount of penalties to be assessed, if any; and
- Provide hotel or motel management with detailed report of specific observations and penalties, if any.

Scope

The scope of this audit includes hotels and motels located and operating in Albany County. Per applicable State and Local Law¹, only hotels and motels that have 25 or more rooms are required to collect occupancy tax. The Hotel Occupancy Tax Audit is performed twice annually and in total generally reviews between 30 and 40% of the existing locations. Locations are selected for audit on a two year rotating basis. Any location observed to be in noncompliance is reviewed as part of subsequent audits continuously until compliance is established and verified, as such, the total number of locations audited varies from year to year.

Audit work was substantially completed in July 2020.

Approach

To accomplish these objectives the DAC performed the following:

- Schedule site visit with hotel or motel operators;

- Perform reconciliation of physical records provided against quarterly returns filed with the Albany County Department of Finance;
- Review sample of documentation provided to support exempt revenue; and
- Issue an invoice for any and all penalties imposed.

Observations

We noted the following two observations:

- Misclassification of exempt revenue at one location, a penalty was assessed in the amount of \$3,165; and
- Miscalculation of tax due which resulted in an underpayment at one location, a penalty was assessed in addition to the underpaid amount totaling \$1,208.

Conclusion

The DAC performed the Hotel Occupancy Tax Audit at a total of 16 locations. The auditors reviewed records for taxable room sales of \$12,559,949 which generated \$753,597 in Occupancy Tax. Observations noted by auditors resulted in a total of \$4,373 in unpaid occupancy tax and penalties.

Additionally two hotels scheduled to be reviewed were closed due to the current public health crisis and will be added to next year's audit locations if they do not reopen in 2020. Ten additional hotels are scheduled to be audited in the fall of 2020 to complete the annual process.

I would like to thank the management from all participating hotels for their cooperation with our audit team in performing this review.

Sincerely,



Susan Rizzo,
Albany County Comptroller

cc: Edward Dott, Executive Deputy Comptroller
Stephanie Slominski CIA, Chief Auditor