



Town of Gardiner

Town Clerk/Tax Collector

2024M-78 | October 2024

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Report Highlights

Town of Gardiner

Audit Objective

Determine whether the Town of Gardiner (Town) Town Clerk/Tax Collector (Clerk) recorded, deposited, remitted and reported collections accurately and in a timely manner.

Key Findings

The Clerk generally recorded and reported collections accurately; however, the Clerk did not deposit and remit clerk fees and tax collections in a timely manner. In addition, the Town Board (Board) did not conduct the required annual audit of the Clerk's records and reports. As a result, the Board's ability to effectively monitor the Clerk's financial operations was diminished, and there was an increased risk that collections could have been lost or stolen. The Clerk did not:

- Deposit 54 clerk fees totaling \$3,726, and 28 out of 50 tax collections tested totaling \$69,975 in a timely manner or in accordance with New York State Town Law (Town Law) Section 30 that requires fees over \$250 to be deposited within three days of receipt or Town Law Section 35 that requires tax collections to be deposited within 24 hours.
- Remit real property tax collections and clerk fees to the Town Supervisor (Supervisor) and County Treasurer (Treasurer) within the required time frames set forth in Town Law Sections 27 and 35.
- Remit \$2,387 in penalties and interest to the Supervisor or identify and correct a \$2,406 erroneous refund that was issued.

Key Recommendations

Deposit and remit all collections within the required time frames; recover refunded funds and remit the outstanding penalty payment to the Supervisor; and conduct an annual audit of the Clerk's records and reports.

District officials generally agreed with our recommendations and have initiated or indicated they planned to initiate corrective action.

Audit Period

January 1, 2023 – February 1, 2024

Background

The Town is located in Ulster County (County). The elected five-member Board is responsible for the general oversight and management of Town operations. The Supervisor is a member of the Board and serves as the chief executive and chief fiscal officer.

The Clerk is elected to the Town Clerk position and collects fees for a variety of purposes including hunting and fishing licenses, dog licenses, and vital statistic records. Generally, all fees received by the Clerk are the property of the Town, County or State, and must be remitted to the appropriate entities monthly.

In addition, the Clerk is to serve as the tax collector and is responsible for collecting real property taxes and remitting collections to the Supervisor and Treasurer.

Quick Facts	
Population	5,650
2023 Tax Warrant	\$7,573,129
2023 Clerk Fees	\$327,298

Town Clerk/Tax Collector

A clerk:

- Is in charge of most town records,
- Issues certain licenses and permits,
- Files reports with county and State agencies as required,
- Is involved with election administration, and
- Posts legal notices,

In addition to fees collected by the Clerk, the Clerk's office also collects fees on behalf of the Transfer Station and the Building and Recreation departments for transfer station permits and garbage coupons, summer camp registrations, and building permits.

In towns where a town board abolished the office of the tax collector, all books, documents and records pertaining to such office are turned over to the town clerk to collect taxes as a tax collector (Town Law Sections 35 and 36). Generally, tax collections are the largest single revenue source for a town.

How Should Collections Be Recorded, Deposited, Remitted and Reported?

A clerk must properly account for all collections by promptly and accurately recording the daily amounts collected, depositing collections intact (in the same amount and form - cash or check - as received), remitting the collections to the appropriate parties and accurately reporting amounts collected to the board.

Town Law Section 30 requires a clerk to deposit all fees collected within three business days after total collections exceed \$250. Town Law Section 27 requires a clerk to remit collections to the town supervisor and other agencies by the 15th day of the following month.

Town Law Section 35 requires a clerk, as tax collector, to deposit all real property taxes collected within 24 hours of receipt and remit real property tax collections to a town supervisor at least once each week until a town's share of taxes is paid in full. The remaining tax collections must be paid to the county treasurer no later than the 15th day of each month following the date of receipt. In addition, a clerk is required to assess penalties and interest on real property tax collections that are not received on time, and remit to the town supervisor no later than the 15th day of each month as required by Town Law Section 27.

A clerk must also submit an annual accounting to a board, on or before January 20, for all money received and disbursed during the preceding year as required by Town Law Section 123. The annual accounting helps a board fulfill its overall fiscal oversight responsibilities by providing the board with an opportunity to conduct an audit to assess the reliability of the books, records and supporting documents. The annual accounting also serves to identify conditions that need improvement and provides useful information to help a board oversee a town's financial operations.

Clerk Collections Were Not Always Deposited and Remitted in a Timely Manner

We reviewed the Clerk's records, including duplicate cash receipts, dog license reports, marriage certificates and New York State Department of Environmental Conservation (DEC) reports for February

and August 2023 totaling \$11,276 and \$21,098, respectively. We determined that all collections tested were recorded and reported accurately; however, not all fees collected were deposited in a timely manner as required by Town Law. We also reviewed the reports and the remittances of the collections to the Supervisor and other agencies for all 12 months in 2023 and determined collections were not always remitted in a timely manner to the Supervisor. Specifically, we identified:

- For February 2023, the Clerk collected a total of \$11,276, of which 54 of the 162 fees collected totaling \$3,726 were not deposited in a timely manner. Collections exceeding the \$250 threshold were deposited from four to nine days after they were received by the Clerk.
- The monthly report and the Town's portion of fees collected were not remitted to the Supervisor in a timely manner for four out of the 12 months reviewed. Fees for April of 2023 were not remitted to the Supervisor until June of 2023. The other three months were from seven to nine days late.

The Clerk told us that in February she was busy with tax collections and did not have a Deputy¹ at that time to help her out; therefore, sometimes deposits were not deposited in a timely manner. The Clerk also stated that the Supervisor's report and the fees for April were not remitted to the Supervisor until June because she mistakenly deposited Clerk's fees into the tax collector's bank account.² Therefore, the Clerk's bank account did not have sufficient funds to pay the Supervisor, so she waited until the money was transferred to the Clerk's bank account before remitting the collections to the Supervisor.

When collections are not deposited in a timely manner, the risk that funds may be lost or stolen increases.

Tax Collections Were Not Always Deposited and Remitted in A Timely Manner

We reviewed 50 tax collections totaling \$139,714 to determine whether tax collections were recorded properly and, deposited in a timely manner and intact. We also reviewed the accuracy and timeliness of the amounts remitted to both the Supervisor and the Treasurer for the collection period. We determined tax collections were properly recorded, reported and deposited intact; however, collections were not always deposited, nor were they remitted, in a timely manner.

We determined 28 out of 50 collections tested totaling \$69,975 were not deposited in a timely manner as required by Town Law. Collections were deposited between one and 62 days late.

- 23 were deposited between one and six days late.
- For the remaining five, the collections were 10, 11, 13, 60 and 62 days late.

The Clerk told us that she did not have a Deputy Clerk during the 2023 tax collection period, and that she could have recorded the transactions in the Clerk's financial software application, but she waited to have more transactions in a batch to make the bank deposit. However, when tax collections are not deposited in a timely manner, there is an increased risk that loss or theft can occur.

1 The Clerk had a deputy in July of 2023 for a short period, before resigning, and then another started in January 2024.

2 We verified that the money was deposited to the wrong account and then transferred to the Clerk's account.

We reviewed and compared cancelled checks to the settlement report with the Treasurer, and unpaid report to determine whether the Clerk remitted accurate amounts to the Supervisor and Treasurer and in a timely manner. While accurate amounts were remitted to the Treasurer, penalties and interest were not accurately remitted to the Supervisor, nor were they remitted in a timely manner.

The Clerk did not remit collections to the Supervisor on a weekly basis as required by Town Law. The Town’s full tax levy of \$2,761,191 was collected by January 30, 2023. The Clerk did not remit any collections to the Supervisor until February 7, 2023. Once the Clerk has satisfied the Town’s full levy, she is required to remit collections to the Treasurer by the 15th of each month thereafter until the full warrant is settled with the Treasurer. However, the first payment to the Treasurer, totaling \$2,405,969 that was supposed to be made by February 15th was not made until March 10, 2023. The second payment totaling \$1,349,079 for tax collections and \$2,094 for interest earned on the deposited tax collections was not paid to the Treasurer until the Clerk settled with the County on June 16, 2023. Therefore, taxes collected in March, April and May were not remitted until June of 2023 (Figure 1).

The Clerk told us she was not aware that the remittance check to the Supervisor had to be written weekly and the check to the Treasurer remitted by the 15th of the month after the warrant is satisfied. She said that she was trained by the previous Clerk to write one check to the Supervisor and two to the County.

Penalties Were Not Accurate or Remitted in a Timely Manner

The Clerk did not remit penalties and interest to the Supervisor accurately or in a timely manner. Penalties and interest totaling \$22,660 should have been paid to the Supervisor for the 2023 tax collections; however, only \$20,273 was paid, resulting in \$2,387 not being remitted to the Supervisor. Further, the penalties and interest collected from February through June of 2023 were not paid

Figure 1: 2023 Real Property Taxes Collected and Remitted^a

Month	Taxes and Penalties Collected	Interest Earned	Amount Remitted to the Supervisor	Amount Remitted to Treasurer	Cumulative Unremitted Amount
January	\$ 3,512,086	\$ 391	-	-	\$ 3,512,476
February	\$ 2,302,576	\$ 1,208	\$ 2,761,191	-	\$ 3,055,070
March	\$ 324,227	\$ 1,036	-	\$ 2,405,969	\$ 974,364
April	\$ 146,055	\$ 418	-	-	\$ 1,120,836
May	\$ 187,102	\$ 505	-	-	\$ 1,308,443
June	\$ 64,950	\$ 397	-	\$ 1,351,173	\$ 22,618
July	-	\$ 10	-	-	\$ 22,627
August	-	\$ 12	-	-	\$ 22,639
September	-	\$ 21	-	-	\$ 22,660
October	-	-	\$ 20,273	-	\$ 2,387
Total	\$ 6,536,996	\$ 3,996	\$ 2,781,463	\$ 3,757,142	

a) The chart excludes refunds to taxpayers for overpayments and the beginning balance in the account.

to the Supervisor until October of 2023, when they are required to be paid by the 15th of the following month for collections of the previous month (refer to Figure 1).

The Clerk stated that she does not perform an actual reconciliation of penalties and interest due to the Supervisor. Once she settles with the County, all the money left in the bank account (minus the \$25 that is always kept in the bank) goes to the Supervisor for the penalties and interest she collected. If a reconciliation had been performed, the Clerk would have been aware of the erroneously refunded payment she had documented as a second payment totaling \$2,406 and would have also realized she refunded the taxpayer for the full amount due for 2023.

Further, deficiencies identified in this report occurred without detection because the Clerk did not submit an annual accounting to the Board of all money received and disbursed, and the Board did not request such information from the Clerk. Because the Board did not perform annual audits of the Clerk, its ability to effectively monitor financial operations was diminished. Had the Board conducted annual audits, it likely would have recognized the deficiencies and brought them to the Clerk's attention to encourage corrective action.

What Do We Recommend?

The Clerk should:

1. Deposit all real property tax collections within 24 hours of receipt, and clerk fees within three business days after collections exceed \$250.
2. Remit all collections to the Supervisor in the required amounts and by the 15th of each month.
3. Remit real property tax collections to the Supervisor at least weekly until the Town's share of taxes is paid in full, and thereafter, to the Treasurer no later than the 15th day of each month following the date of receipt.
4. Recover the funds given to the taxpayer in error and remit the funds to the Supervisor.
5. Remit the outstanding penalty payment to the Supervisor.

The Board should:

6. Conduct an annual audit of the Clerk's records and reports.

Appendix A: Response From Town Officials

TOWN OF GARDINER

P.O. Box 1, GARDINER, NEW YORK 12525-0001 (845) 255-9675 Fax: (845) 255-9146

Town Hall Offices
2340 Route 44/55

Town Meeting Hall
2340 Route 44/55

Marybeth Majestic
Supervisor

Julia Hansen
Town Clerk

Attn: Dara Disko-McCagg, Chief of Municipal Audits
33 Airport Dr, Suite 102
New Windsor, NY 12553-4725

September 30, 2024

Town of Gardiner
Town Clerk/Tax Collector
2024M-78

The Town Clerk/Tax Collector of the Town of Gardiner acknowledges and agrees with the findings in the Town Clerk/Tax Collector Report of Examination 2024M-78. Below is the Corrective Action Plan for the recommendations contained in the report.

Key Recommendations - Deposit and remit all collections within the required time frames; recover refunded funds and remit the outstanding penalty payment to the Supervisor; and conduct an annual audit of the Clerk's records and reports.

1. Deposit all fees in a timely manner.

-The Town Clerk/Tax Collector has started making deposits when collections exceed \$250.00 within 3 business days of receiving monies.

-The Town Clerk/Tax Collector has started making deposits of tax collections within 24 hours of receiving monies. This practice was implemented immediately by the Town Clerk and Deputy Town Clerk.

2. Remit real property tax collections and clerk fees in a timely manner.

The Town Clerk/Tax Collector started remitting payments to the Supervisor and the County Treasurer within the required time frames outlined in Town Law Sections 27 and 35. This practice was implemented immediately by the Town Clerk and Deputy Town Clerk.

3. Correct the \$2,406 erroneous refund issued and remit interest/penalties to the Supervisor.

The Town Clerk/Tax Collector is working with the Ulster County Department of Finance to remedy the erroneous refund that was issued.

4. Conduct an Annual Audit of the Clerk's records and reports.

Conduct an Annual Audit of the Town clerk's records and reports within the required time frame.

Respectfully submitted by,
Julia Hansen
Town Clerk/Tax Collector
9/30/2024

Town of Gardiner

As Town Supervisor, I would like to add to this response. It is imperative for the Office of the State Comptroller to understand the measures that have been taken by me and the town board regarding the key recommendations.

The Town Board has replaced our previous municipal bookkeeper with a new bookkeeper that stays in touch with and attends annual conferences provided by GFOA. Unlike her predecessor, she is willing to assist town hall elected officials and employees with questions on proper procedures.

It is also important to note, that 2024 was Julia Hansen's first year collecting taxes on her own. Julia now has a reliable, detail-oriented Deputy that will assist her in the tax collection process.

With the assistance of our new municipal bookkeeper, the Town Board will also implement a policy to conduct an annual audit of the Town Clerk's records and reports.

I am grateful for the assistance that we received from the Office of the State Comptroller, we all learned from the audit process.

Sincerely,

Marybeth Majestic
Gardiner Town Supervisor

Town of Gardiner

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We interviewed the Clerk and other Town officials to gain an understanding of internal controls over collecting, recording, depositing, remitting, and reporting money collected by the Clerk and to determine whether policies and procedures over the Clerk's collections process had been established.
- Using our professional judgment, we selected two months, February and August of 2023, to compare accounting records. We compared the Clerk's accounting records and supporting documentation (e.g., duplicate cash receipts, dog license reports, marriage certificates and DEC reports) to deposit compositions obtained directly from the bank to determine whether all transactions were accurately recorded, reported and remitted in a timely manner.
- Reviewed all monthly clerk reports provided to the Supervisor for 2023, the Clerk's check book, and bank statements to determine whether the Clerk remitted and reported collections in a timely manner an accurate amount was paid to the Supervisor and other agencies. Compare the clerk report totals for 2023 to collections recorded in the financial application to determine whether the Clerk properly recorded all collections, deposited them in the bank, and accurate amounts were paid to the Supervisor and other agencies.
- Obtained Town tax rolls, Ulster County Information System (UCIS) batch reports, settlement reports, and tax bills. Selected a random sample of 50 properties from the UCIS batch report and traced to the tax roll, tax bills and to deposit slip/receipt and bank statement and determined whether tax payments were properly recorded, deposited intact and in a timely manner.
- Obtained Settlement Report to the County, unpaid reports, and canceled checks (Tax Collector checkbook) to determine whether the Clerk remitted the correct amount to both the Supervisor and Treasurer and determine whether all withdrawals were for appropriate tax collection purpose. Reviewed penalties to determine whether the correct penalties were paid.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.ny.gov/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.ny.gov/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.ny.gov/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.ny.gov/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.ny.gov/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.ny.gov/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.ny.gov/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.ny.gov/local-government/academy

Contact

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<https://www.osc.ny.gov/local-government>

Local Government and School Accountability Help Line: (866) 321-8503

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