



Town of Java

Tax Collection Remittance

P1-24-21 | January 2025

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Report Highlights

Town of Java

Audit Objective

Determine whether the Town of Java (Town) Tax Collector remitted all collections as required by New York State Town Law (Town Law).

Key Findings

The Tax Collector did not remit collections to the Town Supervisor (Supervisor) and Wyoming County (County) Treasurer within the timeframes established by Town Law Section 35. As a result, funds were not provided to finance Town and County operations in a timely manner.

- The Tax Collector did not remit taxes totaling approximately \$922,000 to the Supervisor at least weekly and as required by Town Law.
- The Tax Collector improperly followed the Supervisor’s instructions to not remit taxes to the County each month. The Tax Collector is a separately elected official of the Town and is not governed by the Supervisor. By following the Supervisor’s instructions, the Tax Collector did not comply with Town Law, which required monthly payments to the County.
- Town officials hired an independent auditor to audit the former Tax Collector’s 2022 records. The auditor’s report indicated that tax collection payments to the Supervisor and Treasurer did not comply with Town Law. Although the Board’s meeting minutes indicate that the Board reviewed the audit report, the Board did not take corrective action. Board members did not respond when asked to explain why they did not take corrective action.

Recommendations

The audit report includes two recommendations that, if implemented, will improve the Town’s tax collection practices.

The Supervisor and Tax Collector submitted separate responses to our audit. Both generally agreed with our recommendations and indicated they planned to initiate corrective action. Appendix B includes our comment on an issue raised in the Supervisor’s response.

Audit Period

January 1, 2024 – August 30, 2024

Background

The Town is located in Wyoming County and is governed by an elected five-member Town Board (Board), which includes the Supervisor.

The Board is responsible for overseeing Town finances and operations, including overseeing the elected Tax Collector’s operations. Also, the Board is required by Town Law Section 123 to conduct an annual audit of the Tax Collector’s records.

The Tax Collector is responsible for collecting and remitting Town and County real property taxes to the Supervisor and County Treasurer.

The Tax Collector collects real property taxes from January 1 through March 31 each year. After that, the County collects any overdue taxes.

Quick Facts	
2024 Real Property Taxes Collected	\$2.6 million
Taxable Parcels	1,660
Resident Population	1,972

Tax Collections

What Are the Remittance Requirements of Town Law?

Town Law Section 35 requires a tax collector to remit collections (including any interest and penalties, received and deposited) to the town supervisor at least once each week, or at more frequent times as may be specified by a resolution of a town board, until the town's portion of the real property tax levy is paid in full. After the town's portion of the warrant is fully collected and remitted, Town Law Section 35 also requires the tax collector to remit all additional tax collections to the county treasurer no later than the 15th day of each month following the date of receipt. When collections are not remitted as required, funds will not be available to finance operations, and they can be at risk of being lost, stolen or used for unauthorized purposes.

Collections Were Not Remitted as Required

We reviewed all tax collection remittances totaling approximately \$2.6 million made to the Supervisor and County Treasurer for the 2024 fiscal year and determined that the Tax Collector did not make remittances in accordance with Town Law Section 35. The Tax Collector should have made weekly remittances until the Town's portion of the real property tax levy was satisfied. Therefore, the Tax Collector should have remitted five payments to the Supervisor in January 2024. Instead, the Tax Collector remitted a single payment totaling \$922,137 to the Supervisor on February 20, 2024.

In addition, with the Town's portion of the tax levy being satisfied, the Tax Collector should have remitted \$1,402,084 to the County Treasurer by February 15, 2024, \$116,410 by March 15, 2024 and \$110,030 by April 15, 2024, with the last one being a final settlement payment. Instead, the Tax Collector made one single payment totaling \$1,628,524 to the County Treasurer on April 10, 2024.

The Tax Collector told us that she did not remit collections to the County Treasurer as required because the Supervisor instructed her to not make remittances until the "last possible day to reconcile" with the County Treasurer. The Supervisor indicated that delaying the payments would allow the Town to earn interest on these funds. This intent is noted in the Supervisor's letter, dated January 5, 2024, to the Tax Collector.

In the letter, the Supervisor instructed the Tax Collector to retain the funds because Town officials included the interest earnings (which were earned by holding onto the funds for a longer period) in the Town's budget as a source of revenue. As a result, funds were not available to finance Town and County operations in a timely manner.

When we asked the Supervisor about her letter, she told us that she did not know when the Tax Collector should make remittances to her and the County Treasurer. However, we question the Supervisor's statement. The Supervisor is a member of the Board, and the Board's meeting minutes indicate that the Board discussed an independent auditor's report dated May 23, 2022. This report indicates that the Tax Collector's remittances to the Supervisor and County Treasurer did not comply with Town Law Section 35.

We also question why the Tax Collector – as a separately elected official of the Town who does not work for or report to the Supervisor – followed the Supervisor's instructions and did not comply with Town Law. Town officials must comply with statutory requirements, do not have the discretion to choose

which laws are followed and should not have withheld the required remittances to earn interest on the County's funds. Although we tried to meet with the Board to discuss our audit findings, the independent auditor's findings and its lack of corrective action, the Board members did not return our calls or respond in any other manner.

What Do We Recommend?

The Board should:

1. Review the results and recommendations of the 2022 annual audit and develop and implement a plan for corrective action.

The Tax Collector should:

2. Remit collections to the Supervisor and Treasurer within the timeframes established by Town Law.

Appendix A: Responses From Town Officials

Town of Java

PO Box 4 North Java, New York 14113

585-535-8027

Vanessa McCormick

Supervisor

Trish Muniak

Town Clerk

December 11, 2023

Office of New York State Comptroller
Buffalo Regional Office
295 Main Street Suite 1032
Buffalo, NY 14203-2510

RE: Town of Java Remittance Audit

To Whom It May Concern:

This letter is acknowledgement of the draft report regarding the above audit. We have received this draft and conducted the exit review with the audit team.

The Town Board would like to thank the comptroller's office for your diligence and attention to fiscal matters across the state and for reviewing procedures in our town.

For the majority of your findings, the board is in agreement. The board however, takes exception with the language used in the report that may mislead readers into thinking the supervisor and board advised the collector to break municipal law. The tax collector is a duly elected official and is accountable to the voters. The Supervisor advised her that previous collectors have placed collected monies in interest bearing accounts until the last possible date of remittance to the county to allow the town to glean revenue for the general fund. However, this information was not intended to mean for the collector to not follow the calendar in the law just not to pay earlier than necessary.

Historically, the tax collector has placed collected monies in account and remitted at one time to town and then to county. The town board appreciates the corrective direction of the audit

See
Note 1
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team and will expect the tax collector to follow the weekly remittance plan. As the audit was done of the current collector's first collection, the Town Board is confident the procedure laid out by the audit will be followed this collection year.

Thank you for your assistance and continued support,

Vanessa McCormick

Supervisor

Town of Java New York

Town of Java
Rhonda A. Tokarczyk
Java Tax Collector
PO Box 4
North Java, NY 14113

December 18, 2024

Good afternoon,

I am the Tax Collector from Java in Wyoming County. As advised in my final meeting on December 11, 2024, I am submitting a closing statement.

This past year was my first in the role of Tax Collector. You can imagine my reservation when I was called to meet for a state audit! Although I followed instruction from my Town Supervisor that ultimately resulted in corrective action, the experience and process was not dreadful. I found the process to be efficient and very non-threatening. I agreed with their findings and believe this helped me to both learn prompt guidelines and also confirm the many ways I was doing an efficient job. All of the individuals involved were courteous, available, transparent, and reassuring, especially [REDACTED] and [REDACTED].

I can't say I would welcome another "visit" in the near future but in a time when governmental overreach is sometimes prevalent and perceived, I did not feel this was so. The team made me feel that they were there to help rather than ascertain misconduct.

Sincerely,

Rhonda A Tokarczyk
Java Town Tax Collector

Appendix B: OSC Comment on the Supervisor's Response

Note 1

In the report, the Supervisor's instructions to the Tax Collector, related to delaying making remittances with the County Treasurer, were relayed to us by the Tax Collector. Specifically, these statements were the Tax Collector's understanding of the Supervisor's written instructions. The Supervisor's letter to the Tax Collector states that the Tax Collector should hold collections until "the last possible day to reconcile," which would be the date of settlement with the County at the end of the collection cycle.

In the Town's response letter, the Supervisor indicated that she intended the Tax Collector to hold onto collections until the "last possible date of remittance." However, as noted and detailed in the report, dates for "remittance" and dates for "reconciliation" are not the same, and the Supervisor's written instructions were to hold collections until the date of reconciliation.

Appendix C: 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 Town officials who were responsible for the tax collection remittance process. We also reviewed the Board's meeting minutes and tax collection documentation to gain an understanding of the remittance process.
- We reviewed the 2024 tax warrant issued by the County to determine the Town's share of the total tax warrant.
- We reviewed the most recent (2022) external audit report for the Tax Collector's records to determine whether it contained recommendations for the tax collection remittance process. We also reviewed the Board's meeting minutes to determine whether the Board took action on the recommendations.
- We reviewed all tax collection receipts (receiver's stubs) for the 2024 collection cycle and corresponding deposit receipts to determine how much was collected and when it was deposited. We compiled and listed these collections by date collected to determine when payments should have been made to the Supervisor and Treasurer.
- We calculated when the Town's share of the tax warrant could have been satisfied, when payments to the County could have taken place and the amount that the payments should have been.
- We reviewed the Tax Collector's 2024 bank statements, including canceled check images, to determine the amount and dates of payments issued to the Supervisor and County Treasurer.

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 Town Clerk's office.

Appendix D: 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

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

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

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

BUFFALO REGIONAL OFFICE – Melissa A. Myers, Chief of Municipal Audits

295 Main Street, Suite 1032 • Buffalo, New York 14203-2510

Tel (716) 847-3647 • Fax (716) 847-3643 • Email: Muni-Bufferalo@osc.ny.gov

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