



Town of Middlebury

Tax Collection Remittance

P1-24-25 | January 2025

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Report Highlights

Town of Middlebury

Audit Objective

Determine whether the Town of Middlebury (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 \$912,000 to the Supervisor at least weekly as required by Town Law.
- The Tax Collector made one payment totaling approximately \$1.1 million to the County Treasurer in April 2024, instead of paying three separate required payments totaling \$656,657 in February, \$327,001 in March and \$92,168 in April.
- The Board did not audit the Tax Collector’s records as required and, as a result, did not know that the Tax Collector was incorrectly remitting collections to the Supervisor and County Treasurer.

Key Recommendations

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

Town officials agreed with our recommendations and indicated they planned to initiate corrective action.

Audit Period

January 1, 2024 – October 10, 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 a separately elected official and 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 million
Taxable Parcels	954
Resident Population	1,339

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 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 Clerk should have made weekly remittances until the Town's portion of the real property tax levy was satisfied. Therefore, the Clerk should have remitted five payments to the Supervisor in January 2024. Instead, the Clerk remitted one payment totaling \$500,000 to the Supervisor on February 15, 2024, and another payment to the Supervisor totaling \$412,409 on April 9, 2024.

In addition, with the Town's portion of the tax levy being satisfied, the Tax Collector then should have remitted \$656,657 to the County Treasurer by February 15, 2024, \$327,001 by March 15, 2024 and \$92,168 by April 15, 2024, with the last one being a final settlement payment. Instead, the Tax Collector made one single payment totaling \$1,075,826 to the County Treasurer on April 10, 2024.

Although the Tax Collector attended training for the tax collection process after the 2024 tax collection cycle, she told us that she did not remit collections to the Supervisor weekly, or to the County Treasurer monthly, because she was still unaware of the specific remittance requirements until we discussed them with her during our audit. We question this explanation because, in addition to the training the Tax Collector attended, the County Treasurer gave the Tax Collector specific written instructions at the beginning of the 2024 collection cycle that included the required deadlines for remittances to the Supervisor and County Treasurer. Therefore, the Tax Collector was aware of the statutory deadlines and should have made remittances as required.

Also, the Board did not conduct an annual audit of the Tax Collector's records as required by Town Law Section 123. Had the Board conducted the annual audit, the Board members may have identified the untimely payments and could have initiated corrective action.

The Supervisor and one Board member told us that they were unaware of the annual audit requirements. They also said they had not attended training specific to their audit oversight responsibilities and were unfamiliar with OSC's publication *Local Government Management Guide*

– *Fiscal Oversight Responsibilities of the Governing Board* (Figure 1), which discusses the annual audit requirements and the Board’s audit responsibilities, and provides guidance and resources for conducting an audit of the Tax Collector’s records. We gave a copy of the publication to the Supervisor.

Because the Tax Collector did not remit tax collections as required, funds were not available to finance Town and County operations in a timely manner. Also, the delays increased the risk that the funds could be lost, stolen or used for unauthorized purposes.

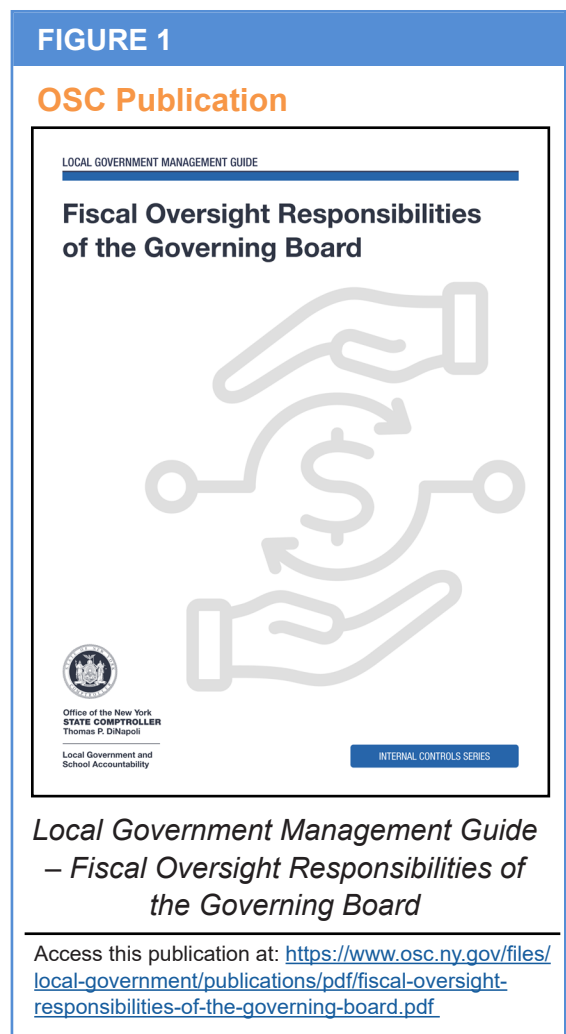
What Do We Recommend?

The Board should:

1. Review the publication linked in this report to become more familiar with its required audit responsibilities and what the annual audit should include.
2. Conduct an annual audit, or contract for an annual audit, of the Tax Collector’s records as required.

The Tax Collector should:

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



Appendix A: Response From Town Officials

Town of Middlebury, NY

51 Sherman Avenue P.O. Box 193
Wyoming, New York 14591
Supervisor Daniel P. Leuer
Town (585) 495-6300

December 28, 2024

Melissa A. Myers
Chief of Municipal Audits
295 Main Street Suite 1032
Buffalo, NY 14203-2510

Dear Melissa,

This letter acknowledges receipt of the NYS Comptroller's Buffalo Regional Office Draft Report of Examination P1-24-25 for the 2024 Tax Remittance period of the Town of Middlebury NY. We further accept the results of the examination for the key findings identified as follows:

Finding #1: The Tax Collector did not remit taxes totaling approximately \$912,000 to the Town Supervisor at least weekly as required by Town Law Section 35.

Town Response: *The Town agrees with this audit finding and will establish a corrective action plan starting with the 2025 Tax Collection period.*

Finding #2: The Tax Collector made one payment totaling approximately \$1.1 million to the County Treasurer in April 2024 instead of paying three separate required payments totaling \$656,657 in February, \$327,001 in March, and \$92,168 in April 2024.


Town Response: *The Town agrees with this audit finding and will establish a corrective action plan starting with the 2025 Tax Collection period.*

Finding #3: The Town Board did not audit the Tax Collector's records as required and, as a result, did not know that the Tax Collector was incorrectly remitting collections to the Supervisor and County Treasurer.

Town Response: *The Town agrees with this audit finding and will establish a corrective action plan starting with the 2025 Tax Collection period.*

We appreciate the assistance of your office and look forward to a satisfactory conclusion of the final report with our corrective action plan in the required timeframe.

Sincerely,


Daniel P. Leuer
Supervisor, Town of Middlebury

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 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 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 County Treasurer.
- We calculated when the Town's share of the tax warrant could have been satisfied, when payments to the County Treasurer 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.

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 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

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

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