

Prince George's County, Maryland
Office of Audits and Investigations

Office of Finance

**Hotel and Motel Tax Collection and Trailer Park or
Mobile Court Fees**

September 2012



**David H. Van Dyke
County Auditor**

TABLE OF CONTENTS

	<u>PAGE</u>
Letter of Transmittal	
Hotel and Motel Tax Audit.....	2-11
Agency Response.....	12-14

September 2012

The County Council and County Executive
of Prince George's County, Maryland

We have conducted a performance audit of the

**OFFICE OF FINANCE'S COLLECTION OF HOTEL AND MOTEL TAX AND
TRAILER PARK OR MOBILE COURT FEES**

in accordance with the requirements of Article III, Section 313, of the Charter for Prince George's County, Maryland. Our report is submitted herewith.

We have discussed the contents of this report with appropriate personnel of the Office of Finance and wish to express our sincere gratitude to them for the cooperation and assistance extended to us during the course of this engagement.



David H. Van Dyke, CPA
County Auditor



Kendal Gray
Auditor-in-Charge

Results in Brief

Prince George's County (County) levies and imposes a tax on all gross amounts of money paid to the owners or operators of hotels and motels in the County by transient guests or tenants renting, using, or occupying a room or rooms, if such rental, usage, or occupancy is for less than ninety (90) consecutive days. The hotel and motel tax regulations are stipulated in the County Code, Prince George's County, Maryland, Subtitle 10: Finance and Taxation, Subdivision 3: Hotel and Motel Tax, Sections 10-218 through 10-225.

Prince George's County imposes a tax upon any sum paid for the rental, leasing, or use of any space, facilities, or accommodations in a trailer park or mobile home court. The trailer park or mobile home court fees tax regulations are stipulated in the County Code, Prince George's County, Maryland, Subtitle 10: Finance and Taxation, Subdivision 8: Trailer Park or Mobile Home Court Fees Tax.

The Office of Audits and Investigations audited the financial records and reports submitted by hotels and motels in Prince George's County to determine compliance with the Hotel and Motel Tax remittance and reporting requirements as stipulated in the County Code. Our audit also included the review of the records and reports submitted by trailer parks or mobile home courts in Prince George's County to determine compliance with the Trailer Park or Mobile Home Court Fees Tax remittance and reporting requirements as stipulated in the County Code. This audit covered the period of calendar years 2009 and 2010.

The following findings are addressed in our report:

- Hotels and motels are not required to submit detailed reviews or supporting documentation to the Office of Finance to verify the revenues and exemptions reported on the Hotel/Motel Tax Return form.
- Hotels and motels did not record data accurately on the Prince George's County Hotel/Motel Tax Return forms. Hotels or motels offset the exemption amount from the revenue, and did not record an exemption amount.
- Hotels and motels did not fully understand what was considered an allowable exemption and did not accurately document exemptions. No standard form was used by the hotels and motels to document and record individuals and organizations for exemption purposes.

- The County Code and hotel and motel tax collection procedures did not prescribe which specific room revenues should be included or excluded for tax purposes. Hotels and motels did not fully understand what revenues should be included or excluded for tax purposes and did not have adequate records to document revenues.
- The County Code and procedures do not address the collection of hotel and motel tax through room remarketers who resell or reserve rooms for which use and occupancy is subject or may be subject to the hotel and motel tax levied under the County Code.
- Eight hotels and motels owe the County additional taxes totaling \$32,640.82 and seven hotels and motels overpaid the County taxes totaling \$55,943.43.
- The County Code regarding Trailer Park or Mobile Home Court Fees Tax has not been revised since 1975. The fees and exemption (including income levels) requirements have remained the same since the law was enacted in 1975. The exemption requirement was not being applied correctly. No records were submitted regarding occupied spaces and exemptions to the Office of Finance for their review.

Background

Prince George's County (County) levies and imposes a tax at the rate of five percent (5%) or ten percent (10%) on all gross amounts of money paid to the owners or operators of hotels and motels in the County by transient guests or tenants renting, using, or occupying a room or rooms, if such rental, usage, or occupancy is for less than ninety (90) consecutive days. The hotel and motel tax regulations are stipulated in the County Code, Prince George's County, Maryland, Subtitle 10: Finance and Taxation, Subdivision 3: Hotel and Motel Tax, Sections 10-218 through 10-225.

According to Prince George's County Code, Section 10-244, a tax of one dollar (\$1.00) per day will be charged on any sum paid for the rental, leasing or use of any space, facilities or accommodations in a trailer park or mobile home court. The tax will be charged on any sum paid for providing any services in a trailer park or mobile home court by the owner, operator, or licensee of the park or court. The tax shall not be greater than five dollars (\$5.00) per month per space if it is occupied by the same individual(s). The trailer park or mobile home court fees tax regulations are stipulated in the County Code, Prince George's County, Maryland, Subtitle 10: Finance and Taxation, Subdivision 8: Trailer Park or Mobile Home Court Fees Tax, Sections 10-243 through 10-248.

The County collected an average of \$19.0 million per year in hotel and motel taxes during calendar years 2010 and 2011. Tax collections for calendar year 2009 and 2010 were \$18.1 million and \$19.9 million, respectively. The County collected an average of \$43,500 per year in trailer park and mobile home court fees taxes during calendar years 2010 and 2011. Tax collections for calendar years 2009 and 2010 were \$43,251, and \$43,753, respectively.

Objective, Scope, and Methodology

The Office of Audits and Investigations audited the financial records and reports submitted by hotels and motels in Prince George's County to determine compliance with the Hotel and Motel Tax remittance and reporting requirements, as stipulated in the County Code.

The primary objectives of the Hotel and Motel Tax audit were to (1) determine whether hotel and motel owners and operators were in compliance with applicable County tax codes; (2) ensure that the correct tax rate of five percent (5%) for hotels and motels and ten percent (10%) for hotels located at the National Harbor was being applied to all

appropriate rental receipts; (3) determine whether hotel and motel tax exemptions were properly applied, supported, justified, and reported; (4) report hotel and motel tax revenue recordation and reporting errors; and (5) determine if any additional tax was owed to the County, or if refunds were owed due to overpayments.

The scope of our review covered calendar years 2009 and 2010. There were seventy-two (72) operating hotels and motels in Prince George's County during that period, all of which were subject to the County's Hotel and Motel Tax. We selected hotels and motels that were previously unaudited, those previously audited that had discrepancies, and those about which the Office of Finance had concerns.

As part of our audit, we selected the records of 15 hotels and motels, or 20.8% of the County's seventy-two (72) hotels and motels that were operating during calendar years 2009 and 2010. The hotels and motels reviewed represent \$26.9 million, or 70.7%, of the hotel and motel taxes collected by the Office of Finance over the two year period. The last Hotel and Motel Tax audit was performed by the Office of Audits and Investigations and completed in May 2009 and covered the time period of July 2002 through June 2006.

Our audit also included the records and reports for calendar years 2009 and 2010 submitted by trailer parks or mobile home courts in Prince George's County to determine compliance with the Trailer Park or Mobile Home Court Fees Tax remittance and reporting requirements as stipulated in the County Code.

The objectives of the trailer park or mobile home court fees tax audit were to (1) determine if trailer park or mobile home court owners and operators were compliant with the County Code; (2) ensure the correct tax was applied; (3) determine whether trailer park or mobile home court fees tax exemptions were properly applied, supported, justified, and reported; and (4) report trailer park or mobile home court fees tax revenue recordation and reporting errors; and (5) determine if any additional tax was owed to the County, or if refunds were owed due to overpayments.

The scope of our review covered calendar years 2009 and 2010. There were five operating trailer parks or mobile home courts in Prince George's County during that period, all of which were subject to the County's Trailer Park or Mobile Home Court Fees Tax. We reviewed the records of one mobile home court, which represented 40% of the taxes collected during the two year period.

Hotel and Motel Tax Review

Hotel and motel owners and operators are responsible for the collection and remittance of the hotel and motel taxes to the County. For a period of two (2) years, hotel and motel owners or operators are required to maintain all necessary records to document and determine the amount of hotel and motel taxes due and payable to the County. The County's Director of Finance has the right to inspect such records at all reasonable times.

According to the County's Hotel and Motel Tax Code, Sections 10-218 through 10-225, the only allowable exemptions from the tax are:

- Any lodging business in which seventy percent (70%) or more of its rental income is paid by tenants who reside on the premise at least ninety (90) days.
- A room rental paid to any hospital, medical clinic, convalescent home, or home for aged persons.
- Room rental paid for any such transient who is a foreign government officer or employee exempted from taxation by reason of an international treaty or an Act of Congress.

In addition, according to the Hotel/Motel Tax Return form, exemptions from the tax are permitted for:

- All Federal and Maryland state civilian and military personnel, traveling on official government business, that pay with government funds. Religious organizations, and Federal and Maryland State civilian and military personnel paying with personal funds, awaiting government reimbursement, do not qualify for an exemption.

It should be noted that the State sales tax exemption does not mean the transient is exempt from paying the hotel and motel tax. For each transaction involving an exemption, a separate certificate of exemption is required to be submitted by the hotel and motel owners or operators with their Hotel/Motel Tax Return forms.

Hotel and motel owners or operators are normally required to submit the Hotel/Motel Tax Return form and related remittances on a monthly basis, however, with the consent of the County's Director of Finance, the owners are permitted to make quarterly submissions. For those entities reporting on a monthly basis, the Hotel/Motel Tax Return form and remittance is

due on or before the last day of each month covering the amount of tax collected during the preceding month. For those entities reporting on a quarterly basis, the Hotel/Motel Tax Return form and remittance is due on or before the last day of April, July, October, and January of each year, covering the amounts collected during the three (3) months immediately preceding the months in which the returns and remittances are required.

During our audit, we interviewed Office of Finance (Finance) staff members regarding the County's hotel tax procedures and reporting requirements. We obtained calendar years 2009 and 2010 hotel tax collection data and reports from all seventy-two (72) hotels and motels in the County.

We interviewed hotel and motel staff regarding the County's tax procedures and reporting requirements. We examined financial reports, including income statements and balance sheets. All internal hotel and motel financial statements and reports were compared to the reported revenues and collections submitted to the Director of Finance from the respective Hotel/Motel Tax Return forms. We examined exemptions reported on the Hotel/Motel Tax Return forms to verify that proper support and documentation was provided.

During our audit, we learned Finance's hotel tax collection procedures did not require the hotels and motels to submit detailed reviews or supporting documentation to verify the revenues and exemptions reported on the Hotel/Motel Tax Return form. However, based on our audit findings, we believe that Finance should require the hotels and motels to provide sufficient supporting documentation to Finance to verify revenues and exemptions. At a minimum, the supporting documentation should provide proof of room revenue and the exemptions.

During our audit, we found six hotels and motels that did not always record data accurately on the Prince George's County Hotel/Motel Tax Return form. Also, three hotels or motels offset the exemption amount from the revenue, and did not record an exemption amount.

Nine hotels and motels did not fully understand what was considered an allowable exemption. For example, three hotels and motels gave exemptions to churches, schools, charities, non-profit organizations, and other non-government organizations, which are not allowable exemption organizations. It is possible they confused the Maryland State sales tax exemption with the County hotel/motel tax exemption. Two hotels and motels used the State exemption regulations instead of the County exemption regulations (i.e. used the State's 30-day continuous occupancy exemption versus the County's 90-day exemption continuous occupancy

exemption). One hotel incorrectly reported no exemptions since they only had a few individuals that qualified for an exemption overall.

Nine hotels and motels did not accurately document exemptions. Hotels and motels used a state certificate or government card as documentation, did not record the name of the exemption agency, kept no records of the exemptions, or used a form signed by the patron but did not record the exemption agency. We found that there is no standard form used by the hotels and motels to document and record individuals and organizations for exemption purposes.

We found that the County Code and hotel/motel tax collection procedures did not clarify what specific room revenues should be included for tax purposes such as no show charges, roll away bed charges, or room rate charges. We found that seven hotels and motels did not fully understand what revenues should be included for tax purposes. The hotels and motels either used just the room rate charge, included no show charges, or in some cases, did not include no show charges. Also, seven hotels and motels did not have adequate records to document revenues.

Based on our review of the procedures provided to the hotels and motels on the Hotel/Motel Tax Return form, we found that the procedures did not clearly define what specific room revenues should and should not be included in the room rental total for the purpose of calculating the tax. Additionally, the procedures did not clearly define the difference between allowable and unallowable exemptions.

During our audit, we found eight hotels and motels that owe the County additional taxes totaling \$32,640.82 and found seven hotels and motels that overpaid the County taxes totaling \$55,943.43.

As a result of the findings above, we recommend the following actions:

- 1. The Director of the Office of Finance revise the hotel/motel tax collection procedures to require the hotels and motels to submit sufficient documentation, upon request, to the Treasury Division to enable staff to verify the accuracy of room revenues, exemptions and taxes submitted by the hotels and motels. The procedures should require that Division staff review and ensure that the Hotel/Motel Tax Return forms are completed accurately.**
- 2. The Director of the Office of Finance revise the hotel/motel tax collection procedures provided to the hotels and motels to include a comprehensive definition of what is and is not included in room revenue, and what are and are not allowable**

exemptions. The procedures should include a standard form for the hotels and motels to record exemptions that reflect each individual's name, the individual's signature, full name of the exemption agency, length of stay and room revenue amount paid. The procedures should also require the hotels and motels to forward the exemptions form(s) or a list recording the required exemption detail, and proof of room revenue (such as profit and loss statement), upon request, to the Treasury Division.

- 3. The Director of the Office of Finance forward the revised hotel/motel procedures to all hotels and motels located in the County.**
- 4. The Director of the Office of Finance require Treasury Division staff to review and verify the accuracy of the revenues and exemptions for a certain percentage of hotels and motels on a periodic basis. Treasury Division staff should ensure that the Hotel/Motel Tax Return forms are completed accurately, and take the necessary steps to correct any discrepancies found by Division staff during their review.**
- 5. The Director of the Office of Finance take the necessary steps to collect the hotel and motel taxes due the County or adjust the hotel and motel taxes for over payments to the County based on our review and concurrence with the findings.**

The County Code and procedures also do not address the collection of hotel and motel tax through room remarketers who resell or reserve rooms for which use and occupancy is subject to the hotel and motel tax levied under the County Code. A room remarketer is a person or organization other than the owner or operator of a hotel/motel, who has the right, access, ability, or authority, through internet transactions or other means, to offer, reserve, book, arrange for, remarket, distribute, broker, or resell rooms for which use or occupancy is subject to the tax levied under the County Code.

The County Code does not specifically require remarketers to collect the hotel and motel tax and the County is not receiving taxes related to room rentals booked through remarketers. We learned that the fee collected by the hotels/ motels was not being included in the room revenues recorded by the hotels. The hotels also do not specifically track the number of rooms rented by remarketers and the amount paid by the room occupant to the remarketers. Therefore, we could not determine the amount of taxes the County is losing by not requiring remarketers to collect hotel and motel tax on each room rental. We also determined that other jurisdictions

require remarketers to collect and submit the applicable taxes to the jurisdiction via the hotels/motels.

As part of the audit, we also reviewed hotel and motel tax rates in other Maryland jurisdictions to determine if the County's rate was comparable and reasonable. The County's tax rate has been 5.0% since July 1, 1995. We determined that the County's rate (excluding certain National Harbor hotels) was slightly lower than most other jurisdictions we reviewed, as shown in the chart below:

<u>County</u>	<u>Tax Rate</u>
Prince George's	5.0%
Anne Arundel	7.0%
Baltimore City	9.5%
Baltimore	8.0%
Howard	7.0%
Montgomery	7.0%
Worcester	4.5%

As a result of the findings above, we recommend the following:

6. Appropriate staff of the Executive and Legislative Branch review sections of the County Code, related to Hotel and Motel taxes, to consider and determine whether definitions for room revenues and exemptions should be revised and clarified; remarketers of hotel and motel rooms should be specifically included for the purpose of collecting taxes; and whether the County's current hotel and motel tax rate is adequate based on the rates of surrounding jurisdictions.

Trailer Park or Mobile Home Court Fees Tax Review

Section 10-244 of the Prince George's County Code stipulates the tax collection requirements for the trailer park or mobile home court fees tax is (one dollar (\$1.00) per day). The tax shall not be greater than five dollars (\$5.00) per month, per space, if it is occupied by the same individual(s).

According to the provisions of the County Code, Section 10-245, the following exemptions shall apply to any sum paid for any trailer park or mobile home court space when: (1) occupied by an individual who has attained the age of 65 years by the July 1 which is the first day of the fiscal year in which the tax is levied and imposed; or (2) occupied by an individual who has not attained the age of sixty-five (65) years, and whose gross income or whose combined gross income, as the case may be, did

not exceed \$7,500 for the calendar year immediately preceding the fiscal year for which the tax is levied and imposed, and who has been found to be permanently or totally disabled under the provisions outlined in the County Code, or (3) occupied by an individual who receives Public Assistance through the Prince George's County Department of Social Services.

The owner, operator, or licensee of a trailer park or mobile home court is required to collect the tax herein imposed. The owner, operator, or licensee shall remit all taxes collected to the Office of Finance by the fifteenth day following the end of each quarter year, in the amount of all taxes due for the preceding three (3) months.

The owner, operator or licensee shall maintain a register of all trailers or mobile homes located within the park or court, as well as the occupants and owners thereof. The register shall be available for inspection by the Office of Finance for the purposes of determining that the taxes imposed pursuant to this Section have been properly collected and remitted by the owner, operator or licensee. No register record shall be destroyed until three (3) years have expired from the date of the latest entry of arrival and departure shown thereon.

The owner, operator, or licensee of the trailer park or mobile home court shall be personally liable for the collection of the tax imposed hereby. Failure of the owner, operator, or licensee to collect the tax on any fee paid shall result in personal liability to the County for the amount uncollected. Failure of the owner, operator, or licensee to remit all the taxes collected by the fifteenth day following the end of each calendar quarter year shall result in a penalty of an amount equal to fifty percent (50%) of the unremitted taxes due, such penalty to be the personal liability of the owner, operator, or licensee. For each failure to register an arrival or a departure by a park user for which fees are collected, the Office of Finance may charge a penalty of not more than fifty dollars (\$50.00) upon the owner, operator, or licensee.

During our audit, we reviewed the records of one mobile home court out of the five trailer park/mobile home courts located in the County. For the two year audit period, the mobile home court reviewed represented \$34,823, or 40.0 %, of the \$87,004 in total trailer park or mobile home court fees taxes collected by the Office of Finance.

We found from our review that the County Code regarding Trailer Park or Mobile Home Court Fees Tax has not been revised since 1975. The fees and exemption (including income levels) requirements have remained the same since the law was enacted in 1975. We also reviewed trailer park or mobile home court fees tax in other Maryland jurisdictions to determine if

the County's rate was comparable and reasonable. We determined that the County's rate was lower than other jurisdictions we reviewed, as shown in the chart below:

<u>County</u>	<u>Rate</u>
Prince George's	\$1 per day, no greater than \$5 per month
Baltimore	7% of gross rental amount paid, no greater than \$20 per month
Anne Arundel	7.5% of sum paid for rental, no greater than \$25 per month

During our audit, we determined that the mobile home court we reviewed incorrectly calculated the taxes on the number of occupied spaces for one fiscal quarter by \$175. In addition, the management only applied the age exemption requirement for exemptions. We also learned that the management did not submit any records regarding occupied spaces and exemptions to the Office of Finance for their review.

As a result of the findings above, we recommend the following:

- 7. Appropriate staff of the Executive and Legislative Branches review sections of the County Code, related to Trailer Park or Mobile Home Court Fees, to consider and determine whether revisions should be made.**
- 8. The Director of the Office of Finance require the trailer parks or mobile home courts to submit occupied spaces and exemption records, upon request, to the Treasury Division to enable staff to verify the accuracy of the data submitted on the Trailer Park/Mobile Home Tax Return forms.**
- 9. The Director of the Office of Finance take the necessary steps to collect the mobile home court fees taxes due the County based on our review upon agreement with our findings.**



Rushern L. Baker, III
County Executive

THE PRINCE GEORGE'S COUNTY GOVERNMENT
OFFICE OF THE COUNTY EXECUTIVE

MEMORANDUM

September 25, 2012

TO: David H. Van Dyke
County Auditor

FROM: Bradford L. Seamon
Chief Administrative Officer

RE: Hotel and Motel Tax Collection & Trailer Park or Mobile Court Fees –
Internal Audit

Attached is the Office of Finance's response to the Office of Audits & Investigations' internal audit of the Hotel and Motel Tax collection process and the Trailer Park or Mobile Home Court Fees Tax. If you have any questions relating to the responses or require additional information, please feel free to contact Linda V. Allen, Chief of Treasury, Office of Finance, at 301-952-3396.

Thank you.

Attachment

cc: Thomas Himler, Deputy Chief Administrative Officer
Gail D. Francis, Director, Office of Finance
Lawrence Cain, Auditor, Office of Audits and Investigations
Stephen McGibbon, Deputy Director, Office of Finance
Linda V. Allen, Chief of Treasury, Office of Finance

PRINCE GEORGE'S COUNTY
Office of Finance's Response to Office of Audits and Investigations
Internal Audit
Hotel/Motel Tax and Trailer Park or Mobile Home Court Fees Tax
9/12/2012

1. Audits & Investigations' Finding:

Hotels and motels are not required to submit detailed reviews or supporting documentation to the Office of Finance to verify the revenues and exemptions reported on the Hotel/Motel Tax Return form.

Office of Finance's Response:

The County Code (Sec. 10-224) requires each person liable for the collection and payment of the Hotel/Motel Tax to retain for two (2) years, records used to determine the amount of hotel/motel tax due. The Code also gives the County the right to inspect the records at all reasonable times. Due to staffing constraints, we will randomly select five (5) hotels/motels on an annual basis to submit the underlying records to support the hotel/motel tax filing.

2. Audits & Investigations' Finding:

Hotels and motels did not record data accurately on the Prince George's County Hotel/ Motel Tax Return forms. Hotels or motels offset the exemption amount from the revenue, and did not record an exemption amount.

Office of Finance's Response:

Finance will revise and distribute the Hotel/Motel Tax Return and accompanying instructions for completing the form by March 31, 2013. To the extent possible, we will provide a comprehensive definition of what is to be included in, and/or excluded from, room revenue. The revised form will be required to be completed by hotels/motels beginning July 1, 2013.

3. Audits & Investigations' Finding:

Hotels and motels did not fully understand what was considered an allowable exemption and did not accurately document exemptions. No standard form was used by hotels and motels to document and record individuals and organizations for exemption purposes.

Office of Finance's Response:

Finance will revise the Exemption Certificate used by hotels/motels when granting exemptions by March 31, 2013. To the extent possible, we will provide a comprehensive list of allowable and unallowable exemptions. The revised form will be required to be completed by hotels/motels beginning July 1, 2013.

4. Audits & Investigations' Finding:

The County Code and hotel and motel tax collection procedures did not prescribe which specific room revenues should be included or excluded for tax purposes. Hotels and motels did not fully understand what revenues should be included or excluded for tax purposes and did not have adequate records to document revenues.

Office of Finance's Response:

(See response to number 2 above.)

5. Audits & Investigations' Finding:

The County Code and procedures do not address the collection of hotel and motel tax through room remarketers who resell or reserve rooms for which use and occupancy is subject to the hotel and motel tax levied under the County Code.

Office of Finance's Response:

The Office of Finance is aware of this issue, and will address this matter with the County Executive's legislative team.

6. Audits & Investigations' Finding:

Eight hotels and motels owe the County additional taxes totaling \$32,640.82 and seven hotels and motels overpaid the County taxes totaling \$55,943.43.

Office of Finance's Response:

Completing and processing paper returns is a labor intensive effort, and brings with it a risk of associated errors. Automation of this process will mitigate this problem. No further action will be taken for these immaterial exceptions that are about 0.01% of FY11 collections.

7. Audits & Investigations' Finding:

The County Code regarding Trailer Park or Mobile Home Court Fees Tax has not been revised since 1975. The fees and exemption (including income levels) requirements have remained the same since the law was enacted in 1975. The exemption requirement was not applied correctly. No records were submitted regarding occupied spaces and exemptions to the Office of Finance for their review.

Office of Finance's Response:

In an attempt to clarify the requirements under this section of the Code, Finance will revise the Trailer Park/Mobile Home Tax Return and the instructions for completing the form by March 31, 2013. The revised form will be required to be completed by trailer park/mobile home owners beginning July 1, 2013. County Code changes to these fees will be addressed with the County Executive's legislative team.