



**County Controller**

Stephen J. Barron, Jr., CFE

**Audit Manager**

Frank S. Kedl, CIA

**Solicitor**

Timothy P. Brennan, Esq.

**County Executive**

John A. Brown

**County Council**

Margaret Ferraro, President  
Glenn A. Geissinger, Vice-President  
Mathew M. Benol  
Kenneth M. Kraft  
Lamont G. McClure, Esq.  
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Hayden Phillips  
Seth Vaughn  
Robert F. Werner

Audit Report

**TAX CLAIM  
AGENCY FUND**

As of  
December 31, 2014

**Office of the Controller  
County of Northampton  
Pennsylvania**



**STEPHEN J. BARRON, JR., CFE**

**CONTROLLER OF NORTHAMPTON COUNTY**

NORTHAMPTON COUNTY COURTHOUSE  
669 WASHINGTON STREET  
EASTON, PENNSYLVANIA 18042

**FRANK S. KEDL, CIA**  
Audit Manager

**TIMOTHY P. BRENNAN, ESQ.**  
Solicitor

**PHONE (610) 559-3186**  
**FAX (610) 559-3137**

May 27, 2015

Members of the Northampton County Council  
John A. Brown, County Executive  
County of Northampton, Pennsylvania

We have completed an audit of the Tax Claim Agency Fund as of December 31, 2014.

The Executive Summary on page 1 summarizes the audit results, while the Audit Results section provides a detailed explanation.

We acknowledge the cooperation and assistance we received from the Revenue Division. Their help was essential to the performance of this audit.

Our report was discussed with management at our exit conference on May , 2015.  
Management's response is included in the Audit Results section of the report.

Very truly yours,

Stephen J. Barron, Jr., CFE  
County Controller

Stephanie Rath-Tickle  
Staff Auditor

# *Table of Contents*

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	<u>PAGE</u>
<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>INTRODUCTION .....</b>	<b>2</b>
<b>PURPOSE AND SCOPE.....</b>	<b>3</b>
<b>METHODOLOGY .....</b>	<b>3</b>
<b>AUDIT RESULTS .....</b>	<b>4</b>
<b><u>Section A - Compliance</u></b>	
<b>1. Distribution of Tax Sale Proceeds .....</b>	<b>4</b>

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## **EXECUTIVE SUMMARY**

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Overall, internal controls for the Tax Claim Agency Fund appear to be working properly, and we did not discover any areas for improvement in regard to economy and efficiency. In addition, most procedures appear to be in compliance with the Real Estate Tax Sale Law. However, we did note that taxes recovered through Upset and Judicial Sales are disbursed prior to obtaining an order confirming distribution from the court, in violation of Section 205 (3) of the Real Estate Tax Sale Law.

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## INTRODUCTION

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Act 542 of the Pennsylvania Real Estate Tax Sale Law (RETSL) was passed in 1947 to “consolidate all delinquent real estate tax claims into one agency as a convenience to local officials, property owners, prospective purchasers, and title searchers.” The County is the consolidating body under the terms of the law. Therefore, delinquent taxes for local Municipalities and School Districts are remitted to the County for collection. Subsequent payments are made to the County and are remitted back to the Municipalities and School Districts monthly. When taxes are delinquent two years, they are scheduled for an Upset Sale by the County then, if necessary, a Judicial Sale.

As a means to account for the taxes due and payments made, the Revenue Division maintains a Tax Claim Agency Fund. An agency fund is a separate accounting entity within the government. It is used to account for assets held solely in a custodial capacity for individuals, private organizations, other governments, and other funds. Agency funds typically involve only the receipts, temporary investment, and remittance of assets to their rightful owners. The Tax Claim Agency Fund is used to account for taxes owed, property acquired at sale, and the receipts and disbursement of moneys collected. Moneys collected are owed to School Districts, Municipalities, and other lien holders. The County retains commissions on payments collected as well as other costs associated with Upset and Judicial Sales.

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## **PURPOSE AND SCOPE**

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This audit is one in a series of periodic audits of all agency funds performed for the purpose of supplementing the year-end work prescribed by the County's external auditor. The focus of the audit was on the receipt and disbursement functions and on compliance with laws and regulations of the Tax Claim function.

The purpose of the audit was:

- To determine the adequacy of internal controls.
- To test internal controls and compliance with laws, regulations, policies, and procedures.
- To determine whether the Tax Claim Agency Fund is maintained economically and efficiently.

Our tests were conducted on transactions occurring between January 1, 2014 and December 31, 2014. Our tests did not include an examination of the computer system/software used by the County to record its financial transactions. We accepted all reports used as accurate.

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## **METHODOLOGY**

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Our methodology included:

- Interviewing Revenue Division personnel to document the receipt and disbursement process.
- Identifying applicable policies, procedures, laws, and regulations.
- Identifying and assessing controls.
- Testing transactions for internal controls and compliance with regulations.

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

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## AUDIT RESULTS

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### Section A - Policies and Procedures

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#### 1. Distribution of Tax Sale Proceeds

##### OBSERVATION

Disbursements were made to municipalities and school districts for taxes recovered through Upset and Judicial Sales prior to the court confirming the distribution of funds. Section 205 (e) of the Real Estate Tax Sale Law, which provides a due process protection for those with claims against the money retained, states, "Prior to the actual distribution required by subsection (d), the bureau shall petition the court of common pleas for a confirmation of distribution." Distributing these funds prior to obtaining the confirmation of distribution could lead to lawsuits against the County.

##### RECOMMENDATION

The Revenue Division should not disburse any funds from Upset or Judicial Sales until they receive the order confirming distribution from the courts.

##### MANAGEMENT RESPONSE

##### **Nancy Poplawski, Revenue Manager**

Historically, the Northampton County Tax Claim Bureau has disbursed the County, Municipal and School real estate taxes maintained by them on the County tax system prior to the end of the year for an Upset Sale and prior to the issuance of the Return and Claim Mailer for a Judicial Sale but generally before the Court of Common Pleas has issued a confirmation of distribution. Presumably, this was done in an effort to avoid sending delinquent tax notices to the new owners of these properties that were sold at the Upset Sale or Judicial Sale as well as avoid bringing a property that has already sold at a tax sale through the sale process again in error in the following year due to the continued presence of taxes on the tax system that are two years delinquent and prior. By paying the taxes in the County Tax system, the payments are flagged for distribution and are included in the monthly disbursement checks made to the Municipalities and School Districts for collections made on their behalf during the month.

The Northampton County Tax Claim Bureau has only paid taxes in the County tax system after the sale has been confirmed by the Court and a deed has been

prepared for the new owner. Taxes have never been paid in the system on properties that have been sold at the Upset or Judicial Sale on which objections or exceptions have been filed until the Court has issued a resolution to the matter. Due to timing constraints, the Tax Claim Bureau generally requests that the Court confirm distribution for both the Upset Sale and the Judicial Sale listed under the same docket number at one hearing date. After receiving confirmation of distribution, the remaining proceeds of the sale are distributed such as real estate taxes due to 3<sup>rd</sup> party collectors, municipal liens, mortgages and surplus funds due to the original owner of the property where applicable.

Although distributing the funds for taxes that are included on the County Tax system on confirmed sales prior to obtaining the confirmation of distribution from the Court of Common Pleas has not led to any lawsuits against the County of which we have been made aware, the Northampton County Tax Claim Bureau agrees that this practice is not strictly in keeping with Pennsylvania Real Estate Tax Law. Beginning with the Upset Sale scheduled for September 2015, the Northampton County Tax Claim Bureau will refrain from distributing any of the proceeds of either the Upset Sale or Judicial Sale by paying taxes on the County tax system or by check request until the Court of Common Pleas has confirmed distribution of the monies.