



OFFICE OF THE CITY ATTORNEY

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MEMORANDUM

To: Steve Williams, Mayor
From: Ericka Hernandez Hostetter, Assistant City Attorney
cc: Bryan Chambers, Communications Director
Scott Damron, City Attorney
Pam Chandler, Finance Director
Anna Neil, Revenue Audit Supervisor
Date: September 21, 2015
Re: Collection details

TEAM COLLECTIONS

The collections effort focuses mainly on municipal/refuse service fees and B&O taxes, however if there are other debts, such as City Service Fees, owed, those are typically captured along with the primary target. The types of debtors are divided into different categories and addressed in a manner best suiting the situation. More detail on that is available below.

Team Collections meets monthly to discuss collections activities, collaborate on methods, and exchange responsibility for specific debtors when alternative methods are needed. The team reports collection numbers to the mayor and council on a quarterly basis. Each member has their own area of expertise, but responsibilities overlap greatly. All members have the authority to negotiate simple Municipal and Refuse Service Fee payment plans.

The Team Collections core group includes:

Legal:

Ericka Hernandez Hostetter, Asst. City Attorney: Developed overall collections plan in regards to B&O collections and continues to coordinate and expand on plan. Structures and chairs collections meetings, drafts team reports, performs assessments of businesses, negotiates settlements and payment plans, handles all complex negotiations, monitors all payment plans backed by promissory notes, files suits, provides direction for other team members in matters of law, policy, and settlement authority.

Alex Campbell, Legal Assisant: Independently monitors all MSF/RSF payment plans not backed by a promissory note, aids in the management of payment plans backed by promissory notes, negotiates and settles MSF/RSF debts, files and maintains records for all liens, drafts court documents for MSF/RSF suits, and perfects judgments.

Finance:

Pam Chandler, Finance Director: All collections activity is performed under the authority of the Finance Director. Director sets authority limits on negotiation as needed.

Anna Neil, Revenue Audit Supervisor: Evaluates construction projects including tracking progression of construction jobs in city to collect proper B&O and investigating old projects for licensure and back B&O taxes; investigates MSF/RSF return mail to identify proper property owner, identify previously-unknown landlords, and facilitate getting landlord licensed and current on B&O and City Service, if applicable. Assesses businesses for taxes owed particularly focusing on, but not limited to, landlords and contractors. Will be doing field audits, as needed. Negotiates payment plans and lump payments on past-due MSF/RSF and B&O taxes.

Brandon Smick, Revenue Auditor: Investigates questionable landlord and contractor tax returns. Investigates questionable businesses to determine if they are in need of licensure and tax compliance. Aids in investigation of MSF/RSF return mail. Will perform field audits. Negotiates payment plans and lump payments.

Becky Bartlett, Asst. Revenue Supervisor: This is a front-line position, having face-to-face contact with most businesses. Due to Becky's experience and zeal for her job, she does investigations, tracks payments, issues stop work orders, identifies businesses in need of a higher level of scrutiny, and works integrally with the rest of the team to bring businesses into compliance. Her knowledge of contractors and B&O taxation of contractors is indispensable.

Ancillary members:

Field Investigator – Nick Ciccarello: Investigates properties to determine occupancy, discover proper property owner, and determine whether questionable business is still a going concern.

Code Enforcement: Serves documents such as notices and stop work orders, as needed, discovers and tickets non-licensed business which typically results in collection of back B&O taxes, helps enforce revoked business licenses and checks building permits on construction companies which is often the basis for B&O tax calculation.

Permitting: Provides information on building permits which is largely the basis of B&O calculation for construction companies. As time goes on, Permitting will be working closely with the Revenue Audit Supervisor to ensure maximum permitting fees and B&O taxes are collected.

Planning: Planning has agreed to include in their land use survey, which is a statutory requirement following enacting a comprehensive plan, the recording of business names in their data collection solely for the purposes of allowing Team Collections the opportunity to locate unlicensed businesses. Additionally, underreported construction jobs are sometimes identified when the property owner submits to the variance or special permit procedure.

DEBTOR CATEGORIES

Municipal & Refuse Fee Accounts

Collection of MSF/RSF debts typically follows the following progression (see attached flow chart as well):

- 2 quarters behind: the Finance Director sends a courtesy letter.
- 3 quarters behind:

- (1) account sent to Rossman & Assoc. collection agency – Rossman continues to work accounts until we pull them back for suit;
 - (2) account eligible for statutory lien; &
 - (3) legal pulls 20 accounts per month from this list to sue.
- Judgment obtain either by confession or default, then either
 - (1) lump payment or a payment plan is arranged; or
 - (2) a judgment lien is perfect if statutory lien not in place.

Liens bring in an average of \$27,000 per quarter.

Additionally, **returned mail** is used to capture MSF/RSF debtors. Auditors investigate returned mail to update records for accurate billing. Field Investigator aids in the identification of property owner. When owner is located, auditor then attempts to collect back fees owed.

B&O Tax Accounts:

Primarily, B&O accounts are divided in the following categories:

- (1) Licensed businesses that file but do not pay;
- (2) Licensed businesses that do not file;
- (3) Licensed businesses that file questionable returns; and
- (4) Unlicensed businesses that operate “under the table.”

Category 1 businesses were largely those that have historically been reported by the media and City detractors as the “uncollected B&O taxes.” Although new businesses do get added from time to time, through investigation, action letters, phone contact, and suits, the majority of businesses in this group have been resolved either by lump payment, payment plans, or write-offs, if deemed uncollectible. A few old accounts are left active due to current liens being in place.

When either a **Category 2 or 4** business is identified, it is usually first contacted by letter to encourage voluntary compliance. If the business is not responsive, using the best information available, returns are created on their behalf and filed under the signature of the Finance Director. Once 60 days expires, if the business is still unresponsive, suit is filed to collect on the amount assessed.

Category 3 businesses are the latest group to be tackled because they need audits. Two groups that will most often trigger additional scrutiny are landlord and contractors who fail to fill out the additional schedules on the back of the tax forms. Random reviews of returns will occur, as well, to check for irregularities in the returns, such as returns that show no fluctuation in income. Typically, the business will be given the opportunity to self-correct, if evidence can be provided to support its numbers.

Lastly, **we take tips** which will be kept confidential. Tips are added to our list of businesses for investigation.