MIAMIBEACH

INTERNAL AUDIT REPORT

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov
Office of Internal Audit
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TO: Jimmy L. Morales, City Manager
FROM: James J. Sutter, Internal Auditor

DATE: September 22, 2017
AUDIT: Certified Propane Gas Corp. – Utility Tax
PERIOD: March 1, 2014 to February 28, 2017

This report is the result of a regularly scheduled audit of the utility taxes collected, due and remitted to the City by Certified Propane Gas Corp. during the thirty-six month audit period.

INTRODUCTION

Chapter 102, Article III entitled "Public Service Tax" (utility tax) of the City Code details the terms and conditions concerning the charging, collecting and remitting of utility taxes on all purchases in the corporate limits of the City of electricity, metered gas, bottled gas and fuel oil. More specifically, section 102-152 states that the seller is to collect and remit ten (10) percent, exclusive of governmental charges and taxes, of the total amount shown on such bill on account of the purchase of electricity, metered gas and bottled gas and four (4) cents per gallon on fuel oil. Other terms listed include the requirement of remitting any monies owed by the 20th day of each month for revenues incurred during the prior month, submitting a semiannual listing (June 30th and December 31st) of all deliveries for resale within Miami Beach, the charging of interest on any late payments, etc. Lastly, City Code Section 102-155 requires records of taxable sales transactions to be kept by the seller for inspection by the City and allows for enforcement of rules and regulations pertaining to Article III of the City Code.

Certified Propane Gas Corp. (Certified Propane), a division of Florida Propane Exchange Corp., provides residential and commercial bulk gas delivery that is subject to Miami Beach's utility taxes. A review of the City's Financial System showed that they reported and remitted the amounts below for the stated periods:

	2014 Mar - Dec	2015 Jan - Dec	2016 Jan - Dec	2017 Jan - Feb	Total
Taxable Sales Reported	$3,722.10	$1,035.80	$6,188.30	$879.60	$11,825.80
Utility Tax Paid	$372.21	$103.58	$618.83	$87.96	$1,182.58

OVERALL OPINION

Although Certified Propane Gas Corp. (Certified Propane) did provide adequate records in support of their utility taxes remitted to the City from transactions originating between January 2016 and February 2017, a scope limitation occurred for the remainder of the audit period covering March 2014 through

December 2015 as sufficient records were not provided despite several requests. As a result, Internal Audit could not make a determination as to their correctness for the audit period despite City Code Section 102-155(a)(1)'s record retention requirements. Consequently, an estimated assessment of $523.48 (including $86.98 in interest) was calculated based on the best information available in accordance with Florida Statute 166.234(4)(a).

In addition, testing found that 17 of 18 Certified Propane's utility tax remittances were received after City Code Section 102-155's stated due dates. Based on Internal Audit's calculations, they should have been assessed $5.49 by the City's Finance Department but were not.

PURPOSE

The purpose of the audit was to determine Certified Propane Gas Corp.'s compliance with the rules and regulations set forth in Chapter 102, Article III, entitled "Public Service Tax", of the City Code with a primary focus on whether the utility taxes paid were accurately calculated and timely remitted to the City during the March 2014 through February 2017 audit period.

SCOPE

1. Review Certified Propane Gas Corp.'s records and documentation to confirm that utility taxes were accurately calculated and collected.

2. Confirm that the required semiannual listing (June 30th and December 31st) of all deliveries for resale within Miami Beach was received by the City in adherence with the terms listed in City Code Section 102-156.

3. Ensure that all tested monthly utility tax collections were timely remitted and correctly recorded in the City's Financial System.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Finding – *Certified Propane Gas Corp. did not Maintain Appropriate Accounts and Records of Purchases of Bottled Gas Originating Between March 2014 and December 2017 as Required in City Code Section 102-155(a)(1) which Resulted in a $523.48 Estimated Assessment being Due*

   City Code Section 102-155(a)(1) states "...to establish and maintain appropriate accounts and records of all purchases of electricity, metered gas, bottled gas, and fuel oil within the corporate limits of the city, which records shall show the price charged upon each purchase, the period of time covered thereby, the amount of tax levied and imposed under this section, and the date of payment thereof. These records shall be kept open for inspection by the duly authorized officers or agents of the city during business hours on all business days upon 60 days' notice, and these duly authorized officers or agents of the city shall have the right, power and authority to make such transcripts therefrom during such times as they may desire."

   Certified Propane Gas Corp. (Certified Propane) provided sufficient records of all their taxable utility tax transactions for the fourteen month period of January 2016 through February 2017. A total of ten (10) Miami Beach customers were identified from their records as being subject to

the City's utility tax provisions.

However, Certified Propane did not provide any taxable sales reports for the remaining twenty-two (22) months of the audit period covering March 2014 through December 2015. Furthermore, there was no supporting documentation listing the dates, names, addresses and amounts of utility taxable transactions attached to the monthly remittances received by the Finance Department during the audit period. Further complicating matters was that Certified Propane would not allow Internal Audit to review all their physical files maintained to determine if any other customers were subject to Miami Beach's utility tax provisions.

As a result, Internal Audit's testing for these twenty-two months consisted of requesting the ten (10) customer files that remitted utility taxes to the City between January 2016 and February 2017 to determine if they had any taxable transactions during the prior twenty-two months. Certified Propane provided manually prepared sales invoices for six (6) of the ten (10) requested customer files as nothing was furnished for the remaining four (4) customers. The total utility taxes owed for these six (6) customers was substantially less the amounts remitted to the City which verified that they were incomplete.

Internal Audit subsequently mailed confirmations to all ten (10) of these customers requesting a listing of all their Certified Propane transactions during the entire audit period. Only two (2) confirmations were received from the six (6) customers and none from the four (4) customers in which no records were provided. Additionally, the two (2) confirmations received listed fewer transactions than those reported previously by Certified Propane so they could not be relied upon.

Unfortunately, there was no known way to determine if any of the other four (4) customers purchased metered gas, bottled gas, and/or fuel oil as none of these responded. Similarly, there were also most likely additional Miami Beach customers that made taxable utility tax purchases between March 2014 and December 2015 that were not included in the reported ten (10) customers but there was no means to identify them.

Florida Statute 166.234(4)(a) states *"If the audit cannot be completed prior to the expiration of this limitation period as extended by tolling, and such condition is due to the seller's {Certified Propane} refusal or delay in allowing access to applicable records, the municipality {City of Miami Beach} may make a proposed assessment from an estimate based upon the best information available for the taxable period..."* Due to the aforementioned scope limitation resulting from the lack of furnished records, Internal Audit prepared an estimated assessment of $523.48 which includes $86.98 in interest which was calculated as follows:

- A monthly average of taxable sales ($6,296.43/14 months = $449.75 per month) was calculated based on Certified Propane's documentation provided for January 2016 through February 2017 which was uniformly applied to the previous twenty-two months of the reviewed period. As a result, the total amount of estimated taxable sales for March 2014 through December 2015 equaled $9,894.39 ($449.75 x 22 months less rounding differences). Consequently, utility taxes of $989.44 ($9,894.39 x 10%) would be due on these sales.
- Certified Propane's utility tax payments of $475.79 remitted between March 2014 and December 2015 were deducted from the $989.44 estimated utility tax figure resulting in a $513.65 difference.
- Interest of $76.49 was calculated on this $513.65 difference from January 1, 2016 until

the audit start date of February 23, 2017 (420 days late).

- The $77.15 calculated overpayment that occurred between January 2016 and February 2017 was deducted from the amounts owed. This figure was calculated based on the actual documentation provided and is not an estimate.
- Interest of $10.49 is owed based on the three identified monthly underpayments occurring between January 2016 and February 2017 based on furnished records of March 2016, May 2016 and November 2016.

Recommendation(s)
Certified Propane should prospectively maintain appropriate and adequate records as required by City Code section 102-155(a)(1) and these records should be furnished to the City upon request. In addition, Certified Propane and all utility tax payers should be required to attach a system report to their monthly utility tax remittance listing all Miami Beach transactions to provide a better audit trail. Lastly, the Finance Department should immediately create a City Bill for $523.48 invoicing Certified Propane for underreported utility taxes during the audit period.

2. Finding – *17 of 18 Tested Utility Tax Payments or 94.44% were Submitted After City Code Section 102-155(b)'s Specified Due Date of the 20th Day of Each Month*
City Code Section 102-155(b) requires Certified Propane to file no later than the 20th day of each month to the City's Finance Department for the prior month's transactions. Analysis of the payments received showed that 17 of 18 utility tax payments or 94.44% were submitted after the 20th day of the month. These late payments ranged from 4 to 41 days late with an average of 13 days late during the audit period.

Additionally, City Code Section 102-157(b) states that interest equal to 10% per annum or the rate as specified by Section 687.01, 2017 Florida Statutes, whichever is higher, on the unpaid amount of tax from the date on which the tax first became delinquent until paid, shall be paid by the seller. As a result, Certified Propane incurred $5.49 in interest that was not billed by the City's Finance Department and therefore was not paid during the audit period.

Recommendation(s)
Certified Propane should remit their future utility tax payments timely or be subject to interest billed by the Finance Department in accordance with the City Code. The Finance Department should create a City Bill for $5.49 due to Certified Propane's late payments during the audit period.

EXIT CONFERENCE

The audit report was e-mailed on August 31, 2017 to Certified Propane Gas Corp.

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Audit performed by Auditor Luis E. Medina

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cc: John Woodruff, Chief Financial Officer
Angel Fernandez Jr., President, Certified Propane Gas Corp.
Carlos J. Fernandez, Controller, Certified Propane Gas Corp.