MIAMIBEACH

INTERNAL AUDIT REPORT

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Office of Internal Audit
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TO: Jimmy L. Morales, City Manager
FROM: James J. Sutter, Internal Auditor

DATE: July 20, 2017
AUDIT: Florida Propane Exchange Corp. – Utility Tax
PERIOD: March 1, 2014 to February 28, 2017

This report is the result of a scheduled audit of the Public Service Tax (Utility Tax) collected and remitted to the City by Florida Propane

INTRODUCTION

Article III entitled "Public Service Tax" (Utility Tax) of the City Code details the terms and conditions surrounding 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. Furthermore, 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 provision for interest on any late payments, etc.

Florida Propane Exchange Corp. (Florida Propane) is a family owned company that sells bottled gas directly to many local restaurants and hotels for seasonal outdoor heating needs and resellers of propane tanks such as gas stations, hardware stores, etc. that are subject to Miami Beach's utility taxes. A review of the City's Financial System showed that Florida Propane 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	$4,079.00	$7,983.10	$0.00	$0.00	$12,062.10
Utility Tax Paid	$407.90	$798.31	$0.00	$0.00	$1,206.21

BACKGROUND

This is the first audit conducted of Florida Propane's utility tax collections and remittances. 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.

OVERALL OPINION

Florida Propane has minimally complied with City Code provisions during the audit period. The following deficiencies were noted during our audit:

- Florida Propane inaccurately reported taxable bottled gas sales and remitted payments based on those amounts to the City for the period of March 2014 to September 2015 and neither reported taxable bottled gas sales amounts nor remitted payment for the period of October 2015 to February 2017. This resulted in a utility taxes (plus interest) due to the City in the amount of $83,157.83.

- Florida Propane did not maintain appropriate accounts and records of all purchases of bottled gas within the corporate limits of the City, as required in City Code Section 102-155(a)(1).

- Florida Propane did not submit reports of deliveries for resale, semiannually, as required in City Code Section 102-156, to the City.

PURPOSE

The purpose of the audit was to determine if utility taxes paid by Florida Propane were calculated accurately and remitted in a timely manner to the City during the audit period and to determine compliance with the rules and regulations set forth in Article III, entitled "Public Service Tax", of the City Code.

SCOPE

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

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

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

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Finding – *Florida Propane Inaccurately Reported Taxable Bottled Gas Sales and Remitted Payments based on those Amounts to the City for the Period of March 2014 to September 2015 and neither Reported Taxable Bottled Gas Sales Amounts nor Remitted Payment for the Period of October 2015 to February 2017.*

   City Code Section 102-152 requires Florida Propane to bill a ten (10) percent tax, exclusive of governmental charges and taxes, on the total amount shown on such bill as due and payable on account of the purchase of bottled gas made within the jurisdictional boundaries the City of

Miami Beach. Furthermore, City Code Section 102-155(a)(1) requires Florida Propane to establish and maintain appropriate accounts and records of all purchases of bottled gas made in the City of Miami Beach. The purpose of the latter requirement (City Code Section 102-155(a)(1)) is to ensure the adequacy of records kept for inspection and audit by authorized officers or agents of the City in order to determine compliance with City Code Section 102-152. Florida Propane's compliance with City Code Section 102-155(a)(1) is discussed further in finding 2.

Internal Audit visited Florida Propane's Miami office on May 9, 2017 and reviewed a provided detailed listing of all taxable sales made within the City between January 1, 2016 and February 28, 2017. Florida Propane stated that a detailed listing of all taxable sales made within the City between March 1, 2014 and December 31, 2015 did not exist and provided customer invoices, for review only, to substantiate transactions that occurred during this period of time.

During this review, it was determined that Florida Propane inaccurately reported taxable bottled gas sales and remitted payments based on those amounts to the City for the period of March 2014 to September 2015 and neither reported taxable bottled gas sales amounts nor remitted payment for the period of October 2015 to February 2017. Additionally, this review showed that utility taxes were charged and collected for 15 out of the 36 months, or 41.67%, of the audit period for Miami Beach transactions.

Florida Propane maintains that a change in their accounting management personnel in early 2016 and a lack of knowledge of municipal public service tax requirements caused the deficiencies detected by Internal Audit in reporting accurate taxable bottled gas sales amounts and remitting payments based on those amounts. Despite the reasons cited above, Florida Propane's non-compliance with City Code Section 102-152 resulted in $83,157.83 in outstanding utility tax payments and interest owed to the City.

The table below shows the actual taxable sales amount collected during the audit period, corresponding utility tax amounts owed based on Florida Propane's provided documentation, utility taxes paid by Florida Propane throughout the audit period, interest calculated in accordance with City code Section 102-157(b), and the total amount due:

	2014 Mar-Dec	**2015 Jan-Dec**	**2016 Jan-Dec**	**2017 Jan-Feb**	**Total**
Actual Taxable Sales	$132,508.00	$231,561.42	$283,169.83	$101,585.00	$748,824.25
Actual Utility Tax Owed	$13,250.80	$23,156.14	$28,316.98	$10,158.50	$74,882.42
Utility Tax Paid	($407.90)	($798.31)	($0.00)	($0.00)	($1,206.21)
Utility Tax Due	$12,842.90	$22,357.83	$23,316.98	$10,158.50	$73,676.21
Interest	$2,886.86	$4,224.49	$2,364.40	$5.87	$9,481.62
Total Due	$15,729.76	$26,582.32	$30,681.38	$10,164.37	**$83,157.83**

Recommendation(s)

Florida Propane must comply with City Code Section 102-152 by accurately reporting and

remitting all utility tax payments collected from City customers to the City. The City's Finance Department should create an invoice and bill Florida Propane for the $83,157.83 in outstanding utility tax payments and interest owed to the City.

2. Finding – *Florida Propane did not Maintain Appropriate Accounts and Records of All Purchases of Bottled Gas within the Corporate Limits of the City, as Required in City Code Section 102-155(a)(1).*
City Code Section 102-155(a)(1) entitled "Records required to be kept" requires Florida Propane "*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.*"

Florida Propane did provide access to records of taxable sales transactions for inspection by the City and a report of taxable sales transactions that occurred within the City for all months in 2016, January 2017, and February 2017. However, Florida Propane did not provide a taxable sales report for the remaining audit period of March 2014 through December 2015. Florida Propane did provide manually prepared sales invoices for those months mentioned above; however, the absence of annual and monthly taxable sales reports represents an internal control deficiency where the integrity of financial and accounting information cannot be ensured.

Internal Audit identified one hundred-two (102) customer accounts, however ninety-two (92) customer account files were provided for review and the remaining ten (10) customer account files could not be located. We were tasked with calculating monthly sales totals, using the manually prepared invoices from the ninety-two (92) customer account files, to identify the utility tax amounts owed to the City. The results of this analysis identified additional taxes due and are reflected in finding 1.

Recommendation(s)
Florida Propane must maintain appropriate and adequate records as required by City code section 102-155(a)(1).

3. Finding – *Florida Propane did not Submit Reports of Deliveries for Resale, Semiannually, as required in City Code Section 102-156, to the City.*
Section 102-156 states "*Every manufacturer, distributor, wholesaler or seller who shall deliver electricity, metered gas, bottled gas or fuel oil service to any seller or other person having a place of business in the corporation limits of the city, or licensed to do business therein, to be sold or resold to ultimate purchasers, shall report to the city finance department semiannually, as of June 30 and December 31, the names and addresses of such sellers or other persons, and the quantities received by each of them during the preceding six months, such reports to be filed not later than one month after the close of each semiannual period*".

Internal Audit requested reports of deliveries for resale from Florida Propane, however, the reports were never created nor sent to the City's Finance Department for review during the audit period.

Additionally, an analysis of Florida Propane Exchange Corp's Miami Beach customers, located within the City, revealed that nine (9) customers are reselling bottled gas, with only one (1) remitting utility tax collection payments to the City, and none possessing the required business tax receipt category authorizing them to sell bottled gas.

The City's Code Compliance Department was subsequently notified by the Finance Department's Customer Service Section of the business tax receipt category deficiencies and code warnings were issued to all nine (9) customers on June 17th, June 20th, and June 25th. The intent of the warnings was to give the resellers the opportunity to comply with the business tax receipt requirement. As of July 5, 2017, 4 out of 9 vendors cited by Code Compliance have taken the initial steps to add the bottled gas category to their business tax receipt.

Florida Propane cited a lack of familiarity with the requirements of City Code Section 102-156 as the cause for not remitting the required reports of deliveries for resale.

Recommendation(s)
Florida Propane must submit reports of deliveries for resale, semiannually, as required in City Code Section 102-156, to the City.

EXIT CONFERENCE

Audit findings were emailed to Florida Propane on July 7, 2017. The company initially agreed with the findings on July 10, 2017. However, on July 11, 2017, Florida Propane subsequently requested to retroactively apply a fuel adjustment charge tax exemption to their taxable sales for the audit period in an effort to reduce the outstanding amount owed to the City in unpaid utility taxes.

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Audit performed by Auditor Luis E. Medina

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