MIAMIBEACH

INTERNAL AUDIT REPORT

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TO: Jimmy L. Morales, City Manager
VIA: Mark D. Coolidge, Interim Internal Auditor MDC
FROM: Luis Medina, Auditor

DATE: February 22, 2018
AUDIT: Walgreen Co. – Utility Tax Audit
PERIOD: April 1, 2014 to December 31, 2017

This report is the result of a regularly scheduled audit of the utility taxes charged, collected and remitted to the City by Walgreen Co. between April 1, 2014 and December 31, 2017.

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 present include the requirement of filing a monthly statement no later than the 20th day of each month setting forth the amount of tax owed to the City on account of bills paid by purchasers during the preceding month, submitting a semi-annual 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.

According to the company's website, Walgreen Co. (Walgreens) specializes in filling prescriptions, health and wellness products, health information and photo services. Additionally, their store located at 1845 Alton Road in Miami Beach sells bottled propane gas directly to customers and is therefore subject to the City's utility tax provisions. A review of their furnished monthly statements and the City's Financial Systems, the Eden System was reviewed for any payments remitted between May 2014 and April 2016 while the Munis System was reviewed for any remitted afterwards, showed that the following amounts were reported and remitted during the audit period:

	2014 Apr - Dec	2015 Jan - Dec	2016 Jan - Dec	2017 Jan - Dec	Total
Taxable Sales Reported	$9,382.00	$15,082.90	$19,852.20	$17,151.20	$61,468.30
Utility Tax Paid	$938.20	$1,508.29	$1,985.22	$1,715.12	$6,146.83

OVERALL OPINION

Walgreen Co. (Walgreens) remitted utility tax statements and payments to the City for each month of the audit period, provided requested documentation in an expeditious manner and cooperated with any and all submitted requests. Overall, Walgreens has essentially complied with the City Code provisions during the audit period; however, the following shortcomings were noted that are in need of corrective action:

- Testing performed on Walgreens' furnished supporting documentation found that the City was underpaid by an immaterial net total of $27.83 which includes $2.94 in interest.
- 35 of 45 tested utility tax payments, or 77.78%, were submitted after City Code Section 102-155(b)'s specified due date of the 20th day of the following month in which the bottled gas purchases were made. The Finance Department did not invoice Walgreens for interest on any of these late payments which totaled only $5.29 due to the low dollars involved and the average of four (4) days late.

SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of this audit was to determine whether Walgreen Co. (Walgreens) complied with the rules and regulations set forth in Chapter 102, Article III, entitled "Public Service Tax", of the City Code. The audit covered the period of April 1, 2014 through December 31, 2017 and focused primarily on determining whether the following objectives were satisfied or achieved:

1. Reviewing Walgreen's records and documentation to confirm that utility taxes were accurately calculated and collected.

2. Confirming that the required semi-annual 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 102-156le).

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

This audit was conducted in accordance with the Standard Operating Procedures of the City of Miami Beach's Office of Internal Audit as well as internal audit best practices. They 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.

The audit methodology included the following:

- Reviewing applicable rules, laws and regulations.
- Performing substantive testing consistent with the audit objectives, including but not limited to examination, on a sample basis, of applicable transactions and records.
- Drawing conclusions based on the results of testing, made corresponding recommendations, and obtaining auditee responses and corrective action plans.
- Performing other audit procedures as deemed necessary.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Finding – *The City was Underpaid by an Immaterial Net Total of $27.83 in Utility Taxes which Includes $2.94 in Interest*
City Code Section 102-152 states *"There is hereby levied and imposed by the city upon every purchase in the corporate limits of the city of electricity, metered gas, bottled gas, and fuel oil included in or reflected by any bills required to be rendered by the seller to the purchaser as provided in subsection (1) of this section, a tax based upon a charge made by the seller thereof, as follows:*

   (1) When the seller renders a bill to the purchaser to cover such purchase made during the period of time to which such bill is applicable, the amount of tax shall be ten percent, exclusive of governmental charges and taxes, of the total amount shown on such bill as due and payable on account of the purchase of electricity, metered gas, bottled gas."

   Detailed supporting documentation of all Walgreen Co.'s (Walgreens) taxable bottled gas sales completed in the City was requested to determine whether the accurate amount of public service tax (utility tax) was remitted. In response, they emailed a spreadsheet report of all their daily bottled propane gas sales occurring at their 1845 Alton Road location. It was separately confirmed that this store was the only Walgreens store within the City boundaries that sells bottled propane gas.

   In addition, twelve (12) complete days of all this store's transactions were requested, received and compared to the aforementioned spreadsheet report for which no material differences were noted. However, a similar comparison of the spreadsheet report to the payments recorded in the City's Financial Systems, the Eden System was reviewed for any payments remitted between May 2014 and April 2016 while the Munis System was reviewed for any remitted afterwards, identified a net immaterial total underpayment of $27.83 to the City which includes $2.94 in interest.

   Recommendation(s)
   Walgreens should better ensure that all future utility tax collections and remittances are accurately calculated in better compliance with the City Code.

2. Finding – *35 of 45 Tested Utility Tax Payments or 77.78% were Submitted After City Code Section 102-155(b)'s Specified Due Date of the 20th Day of Each Month which Resulted in $5.29 in Interest Being Due*
City Code Section 102-155(b) states "*Every seller is hereby required to execute and file no later than the 20th day of each month at the office of the finance department a statement setting forth the amount of such public service tax to which the city became entitled under the provisions of this section on account of bills paid by purchasers during the preceding month, and contemporaneously with the filing of such statements, shall pay the amount of such public service tax to the finance department. If any purchaser refuses to pay such tax specifically, the seller shall promptly inform the city of the name and address of the purchaser, and the amount of tax withheld by the purchaser.*" Furthermore, City Code Section 102-157(b) states "*In addition to any penalties imposed in subsection (a) of this section, any seller who fails to remit or is delinquent in remitting tax due under this article shall pay interest at the rate of ten percent per annum or the rate as specified by F.S. § 687.01, whichever is higher, on the unpaid amount of tax from the date on which the tax first became delinquent until paid.*"

An analysis of Walgreens' monthly payment dates recorded in the City's Financial Systems with Section 102-155(b)'s designated due dates found that 35 of the 45 tested utility tax payments, or 77.78%, were received late ranging from one (1) to twenty-one (21) days with an average of four (4) days. Furthermore, the Finance Department did not invoice Walgreens for interest on any of these late payments. Internal Audit's subsequent calculations determined that the amount of associated interest only totals $5.29 (using a 10% per annum rate) due to the low dollars involved and the average of four (4) days late.

Recommendation(s)
Walgreens should remit their future utility tax payments timely or be subject to interest billed by the Finance Department in accordance with the City Code. Additionally, the City should consider revising City Code Section 102-157 to reflect interest and penalty measures used in some other Florida municipal and county governments to better incentivize companies to pay their utility taxes timely:

- Interest shall be assessed, for failure to pay any tax when due or to file any required return, at a rate of 1 percent per month of the delinquent tax from the date the tax was due until paid.
- Penalties shall be assessed at a rate of five percent per month of the delinquent tax, not to exceed a total penalty of twenty-five percent. In no event shall the penalty for failure to file a return be less than fifteen dollars ($15.00).
- Sellers filing fraudulent returns or willfully attempting to evade payment of the tax shall be liable for a specific penalty of one hundred (100) percent of the tax.

EXIT CONFERENCE

Audit findings were emailed to Walgreen Co. on February 22, 2018 which agreed with the stated findings.

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cc: John Woodruff, Chief Financial Officer
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