Secretary of State AUDIT REPORT

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Oregon Emergency Management: Use of 9-1-1 Telephone Tax for Emergency Communications

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Summary

PURPOSE

The purpose of this audit was to determine whether Oregon's cities and counties complied with state laws regarding 9-1-1 telephone taxes.

RESULTS IN BRIEF

We found that the 9-1-1 telephone tax allocations for 61 percent of the cities and counties, comprising about two-thirds of the taxes, were sent directly to 9-1-1 jurisdictions. Of the remaining cities and counties, we reviewed 26 cities and six counties and found:

- Nine cities and counties used telephone taxes for purposes not permitted by state law. We identified $330,500 in unauthorized expenditures for 9-1-1 coordinators, administrative costs, and communications equipment and services. Five of the nine entities had offsetting call center payments from their general funds. The remaining four entities had no such offsetting expenditures.
- Eleven cities and counties accumulated cash balances of approximately $3.3 million in telephone taxes that were intended to pay for operation of call centers providing service in their jurisdictions.
- One city received telephone taxes from another city even though it did not operate an emergency call center. Misdirected taxes totaled $408.
- One city credited its general fund with $9,800 in earnings from investments of telephone tax funds.

RECOMMENDATIONS

We recommend that Oregon Emergency Management request non-complying cities and counties to:

- Restore amounts spent for unauthorized purposes to their telephone tax fund.
- Cease making unauthorized expenditures.
- Remind cities and counties that they are to send telephone taxes to emergency call centers.
- Request an accounting from cited cities and counties of any misdirected telephone taxes.

We recommend that the legislature consider legislation to prevent:

- Unauthorized expenditures.
- Holding of telephone tax funds.

AGENCY'S RESPONSE

Oregon Emergency Management generally agrees with the recommendations included in the report.

Introduction

Chapter 740 of 2001 Oregon Laws requires the Secretary of State's Audits Division to audit a sample of no less than 10 percent of Oregon's cities and counties to determine if they complied with state laws regarding the use of telephone taxes allocated to finance emergency call centers.

Emergency calls are answered and emergency services are dispatched through a 9-1-1 system that is jointly managed by state and local authorities. A telephone tax provides funding for the 9-1-1 system. The state allocates a portion of the tax proceeds to cities and counties using a formula established by law.

Background

In 1981, the 61st Oregon Legislative Assembly established 9-1-1 as the state's primary emergency telephone number. Oregon Emergency Management (Emergency Management) was given the charge of administering 9-1-1. In partnership with Oregon's local governments, Emergency Management was directed to coordinate development of a system of emergency telephone networks. Today, enhanced 9-1-1 provides emergency call takers and response units with the telephone numbers and addresses of callers and is available to every region of the state.

Emergency Management is responsible for overall coordination and management of 9-1-1. In this role, it consults and assists local governments who operate centers that answer emergency calls and dispatch emergency services. On December 21, 2001, Emergency Management was administratively elevated by executive order of the governor to the level of a state department. Prior to that date, it operated as a division of the Department of State Police.

Emergency calls are answered and emergency services are dispatched by local call centers. In state law, the call centers are called **p**ublic **s**afety **a**nswering **p**oints (PSAPs). A city, county, special district, or an intergovernmental organization may operate an emergency call center. Oregon currently has 55 call centers statewide.

The emergency call system is financed in part with an emergency communications tax (telephone tax) and is supplemented with local funding. The tax is currently 75 cents per month for any telephone line capable of accessing 9-1-1. Telephone companies collect the tax and turn it over to the Oregon Department of Revenue who deposits the tax in the state Emergency Communications Account.

From each 75 cents of tax placed in the Emergency Communications Account, the law provides that at least 43½ cents will be available for distribution to Oregon's cities and counties. Each calendar quarter, Emergency Management allocates these funds using a formula based mainly on population. By law, however, each county is guaranteed a minimum of 1 percent of the tax distributed, regardless of population. State law also requires cities and counties to distribute the taxes to the jurisdictions responsible for the centers that answer emergency calls and dispatch emergency services within their boundaries. In fiscal year 2001, 239 cities and 36 counties received funds. The call centers use the taxes received from cities and counties, along with additional local funding, to pay operating costs.

State law restricts use of the telephone tax to costs related to answering incoming emergency calls and dispatching emergency services.

Laws permit Emergency Management to use as much as 31 cents of each 75 cents of tax. Emergency Management uses these funds to pay for costs related to telephone services for 9-1-1 operations, including replacements and upgrades of equipment, database operations, systems maintenance, and administration. The law also permits the Department of Revenue to take up to ½ cent from each 75 cents tax as reimbursement for administration costs.

Audit Results

We performed an analysis of the $18.2 million in telephone taxes allocated to Oregon's cities and counties in fiscal year 2001. We found that the allocations for 61 percent of the cities and counties, comprising about two-thirds of the taxes, were sent directly to call centers. The remainder, comprising approximately one third of the taxes, was sent to cities and counties that were then responsible for forwarding the money to their centers.

Of the 13 counties and 93 cities responsible for forwarding their taxes to centers, we audited and performed on-site testing of six counties and 26 cities. The majority of entities tested were complying with state telephone tax laws. We identified five counties and six cities that did not comply with one or more of these laws in some respect.

Unauthorized Expenditures

We found that nine entities had diverted $330,500 in telephone tax funds for internal use.

The unauthorized expenditures consisted of $31,000 for 9-1-1 coordinators, $55,000 for administrative costs, and $244,500 for communications equipment and services.

Five of the nine entities, with unauthorized expenditures totaling $81,500, had offsetting call center payments from their general funds. In substance, these transactions represented incorrect accounting and budgeting rather than misused tax receipts.

The remaining four entities, with unauthorized expenditures of $249,000, had no such offsetting general fund expenditures.

Cities and counties are authorized by state law to use telephone tax funds for only one purpose, distribution to call centers having jurisdiction within their boundaries.

The law does not require cities and counties to provide Emergency Management expenditure reports showing how their telephone tax distributions were used, unless they are a 9-1-1 jurisdiction.

We recommend the following:

- Emergency Management should request non-complying counties and cities to restore amounts spent for unauthorized purposes to their telephone tax funds and to cease making unauthorized expenditures.
- The legislature should consider legislation to prevent unauthorized expenditures. Possible solutions may include:
    - A requirement that cities and counties that are not 9-1-1 jurisdictions submit periodic reports to Emergency Management on the use of telephone tax funds. If non-complying expenditures are identified, Emergency Management would seek restoration.
    - A requirement that Emergency Management distribute all city and county allocations of telephone taxes directly to call centers.

Agency's Response:

The issue of these expenditures does appear to be incorrect accounting and budgeting, and we would agree with the recommendations of the auditors and will request the 2003 legislature make it a requirement to disburse all the telephone tax monies directly to the Public Safety Answering Points in the name of the city and county *receiving the 9-1-1 tax funds, which ensures the 9-1-1 tax funds get to the agency responsible for the 9-1-1 services. This process would reduce the errors currently being encountered in the accounting and budgeting of these 9-1-1 tax funds by cities and counties.*

Holding of Tax Receipts

Eleven entities in our sample held (rather than forwarded) portions of the telephone tax they received. As of June 30, 2001, they held approximately $3.3 million in cash and investments that were intended to pay for operation of call centers providing service in their jurisdictions.

The taxes received by these entities in fiscal year 2001 totaled approximately $1.5 million. Using this measure, the $3.3 million represented approximately two years' receipts. Of the 11, one entity held approximately 12 years' receipts, another held five, and a third held four years' receipts.

A variety of circumstances contributed to the accumulation of reserves:

- Some counties received more telephone taxes than were needed for call center services. For example, one call center contracted to provide three counties with its services for $56,500 each in fiscal year 2001. During that period, each of these counties was allocated approximately $182,000 in telephone taxes, or $125,500 more than required by its call center.
- Some cities and counties elect to pay only a portion of the call center billings from telephone taxes. For example, one entity with a tax fund balance of about $524,000 paid for call center services of $700,000 using $95,000 from the tax fund and the remainder from its general fund.
- One city accumulated a large reserve in its telephone tax fund. The city is depleting this reserve as it makes periodic payments for call center services.
- Two cities accumulated telephone tax funds during periods when they operated their own call centers. They elected to hold these funds in reserve when they transferred call handling responsibility to other centers.

The laws relating to telephone tax distributions do not limit the time they may be held before they are sent to call centers.

We recommend that the legislature consider the issue of holding telephone tax receipts. Possible solutions may include:

- Emergency Management could be instructed to distribute the entire county and city share of taxes directly to call centers. The law currently allows cities and counties to voluntarily request this arrangement. The majority of cities and counties follow this practice.
- The tax allocation provision guaranteeing each county a minimum of one percent could be reexamined and revised, if needed, to ensure that taxes distributed do not exceed call center operating costs.

Agency's Response:

We agree that by distributing directly to PSAPs we ensure that the 9-1-1 tax funds get to the responsible agency providing the service and would stop the practice of the 9-1-1 tax funds being accumulated by cities and counties. Currently, there is a committee of PSAPs and the state 9-1-1 Program looking at the distribution formula to resolve the issue of a county or city getting 9-1-1 tax funds when they don't operate a PSAP or their 9-1-1 tax funds received from the state far exceed their costs of providing 9-1-1 call receipt services.

Misdirected Taxes

Our audit disclosed one city that received telephone taxes totaling $408 from another city even though it did not operate a call center.

The law makes no provision for cities or counties to distribute taxes to entities that do not operate a call center.

We recommend that Emergency Management:

- Remind all cities and counties that they may only distribute telephone taxes to call centers providing service within their boundaries.
- Request an accounting of any misdirected taxes. If the taxes have not been forwarded to a call center, they should be returned to the entity that sent them.

Agency's Response:

We will remind all entities currently receiving 9-1-1 tax funds how they need to distribute those funds only to the 9-1-1 jurisdictions providing the 9-1-1 service to them.

Misapplied Earnings

Our audit disclosed one city that credited its general fund with earnings from investments of telephone tax funds during fiscal year 2001. We estimate these earnings to be approximately $9,800.

State and local governments commonly credit earnings on pooled investments to each fund on a pro-rata basis. This city, however, had a policy of applying telephone tax fund earnings to its general fund. As a consequence, this money was not available for call center payments.

The law permits entities to invest telephone tax funds not in use; however, entities are required to use investment income for the same purposes as the taxes.

We recommend that Emergency Management remind all entities that they must credit any earnings on undistributed funds to their telephone tax fund.

Agency's Response:

We will remind all entities that all earnings on any 9-1-1 undistributed tax funds need to be credited to this 9-1-1 tax fund. Distributing these funds directly to the 9-1-1 PSAPs will substantially alleviate this issue.

Objectives, Scope and Methodology

Chapter 740 of 2001 Oregon Laws, in part, required the Audits Division to audit a sample of no fewer than 10 percent of the state's cities and counties.

The primary objective of our audit was to determine whether the sampled cities and counties were sending their allocations of telephone taxes to call centers as required by state law.

We limited the scope of our audit procedures to compliance with this law and certain related requirements for the fiscal year ending June 30, 2001. From Emergency Management information, we determined that $18.2 million in taxes was allocated to cities and counties that year. We also concluded that taxes were distributed in three ways:

1. Fourteen counties and 25 cities operated centers. Approximately $7.5 million was sent directly to them.
2. Nine counties and 121 cities not operating centers had the state send approximately $4.6 million directly to the centers
3. The remaining 13 counties and 93 cities, which did not operate centers, received approximately $6.1 million. These entities were responsible for forwarding this money to their centers.

This analysis of distributions showed that two-thirds of the taxes allocated to entities went directly to call centers. In terms of our audit objectives, the risk of noncompliance by these entities was minimal. We therefore focused our audit efforts and drew our sample from entities whose tax allocations were not sent directly to a call center (group 3 above).

Sample Selection

We selected the sample using four factors: size, unauthorized uses, accumulation, and regional balance.

Size

The sample included two counties and 10 cities that had the largest telephone tax allocations for fiscal year 2001.

Unauthorized Uses

The sample included cities and counties whose audited annual financial reports indicated that they may have used telephone taxes for purposes other than distribution to a call center.

Accumulation

The sample included cities and counties whose audited annual financial reports indicate that they held a significant amount of telephone tax funds that had not been distributed to a call center.

Regional Balance

The sample included cities and counties from all regions of the state.

We used the following regions: Oregon Coast, Willamette Valley (including Portland metropolitan area), Southern Oregon, Central Oregon and Eastern Oregon.

Sample Selection Procedures

The first step was to select the two largest counties and the 10 largest cities from the sample population.

Next, an analysis of the available audited annual financial reports for the remaining 11 counties and 83 cities, in the sample population, was performed to identify counties or cities having indications of accumulations or unauthorized uses. From this group, additional entities were selected for the sample.

We balanced the sample to include at least four entities from each region.

The final sample included 26 cities and six counties. In total, the sample of 32 entities encompassed approximately $4.1 million of the $6.1 million in telephone taxes allotted to the sample population.

Site Visits

A site visit was scheduled for each of the 32 entities in the sample. During the site visit, audit procedures were performed to determine whether the entity complied with the following:

- The requirement to use telephone tax funds only for distribution to a call center.
- The requirement to credit telephone tax funds with its pro-rata share of investment income.

In addition, audit procedures were performed to determine whether a city or county had elected to hold any telephone tax funds for subsequent use and to determine the amount of funds held for such purposes.

We conducted this audit according to generally accepted government auditing standards.

This report, which is a public record, is intended to promote the best possible management of public resources. Copies may be obtained by mail at Oregon Audits Division, Public Service Building, Salem, Oregon 97310, by phone at 503-986-2255 and 800-336-8218 (hotline), or internet at Audits.Hotline@state.or.us *and* http://www.sos.state.or.us/audits/audithp.htm.

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The courtesies and cooperation extended by the officials and staff of Oregon Emergency Management and the various cities and counties were commendable and much appreciated.

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