

Audit Report

**Office of the Register of Wills
Kent County, Maryland**

October 2015



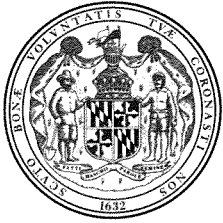
OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Warren G. Deschenaux
Executive Director

Thomas J. Barnickel III, CPA
Legislative Auditor

October 20, 2015

Senator Guy J. Guzzone, Co-Chair, Joint Audit Committee
Delegate Craig J. Zucker, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Office of the Register of Wills for Kent County, Maryland for the period beginning August 18, 2011 and ending May 10, 2015. The Office oversees the administration of decedents' estates within Kent County and assists individuals who administer estates.

Our audit disclosed that the Office had not established adequate controls to ensure that inheritance taxes were accurately calculated and paid, and we noted various payment errors for the estates we reviewed, including underpayments totaling \$46,000.

The Office's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us by the Office during the course of this audit.

Respectfully submitted,

Thomas J. Barnickel III, CPA
Legislative Auditor

Background Information

Agency Responsibilities and Financial Information

The Office of the Register of Wills is a public office established under the Constitution of Maryland. An office is established in each of the 24 Maryland subdivisions. These offices oversee the administration of decedents' estates within their jurisdictions and provide assistance (such as providing the proper forms) to individuals administering estates. The offices collect inheritance taxes and other fees as provided by law.

Inheritance tax collections (less commissions earned by an office on those collections) are remitted to the State's General Fund. The fees collected and commissions earned by an office are first used to finance the operating expenses it is responsible for paying directly. Generally, the remaining balance of fees and commissions is periodically remitted to the Comptroller of Maryland to finance other operating expenses (such as payroll) that the Comptroller pays on behalf of the offices. On a collective basis, the offices' fees and commissions that exceed their operating expenses are credited to the General Fund.

According to the records of the Office of Register of Wills for Kent County, its fiscal year 2014 gross receipts totaled \$488,264, which consisted of inheritance tax collections (net of commissions) of \$316,717 and fees and commissions of \$171,547. The Office's fiscal year 2014 operating expenses totaled \$294,549.

Findings and Recommendations

Administration of Estates

Finding 1

The Office had not established adequate controls to ensure that inheritance taxes were accurately calculated and paid.

Analysis

The Office had not established adequate controls to ensure that inheritance taxes were accurately calculated and paid, and our testing disclosed errors in the calculation of tax payments made on behalf of certain estates we reviewed. In accordance with State law, the Office is responsible for determining and collecting inheritance taxes that are due from an estate based on accounts of property distributions filed with the Office by the decedent's personal

representative. Although the Office advised us that calculations supporting tax payments submitted for an estate are verified for propriety by Office personnel, there was no documentation that this was occurring. During the period from July 1, 2011 to March 31, 2015, the Office collected approximately \$1.4 million in inheritance taxes.

Our review of 19 estates administered by the Office during our audit period disclosed that the inheritance taxes collected for 4 of the estates were not accurate, including 3 estates that underpaid inheritance taxes by approximately \$46,000 and 1 estate that overpaid the taxes by approximately \$9,000. Our review further noted that the same private entity assisted in the filing of the required documentation and the calculation and payment of taxes due for these 4 estates. In total, this entity assisted with the estates for 10 of the 19 estates tested and, according to the Office's records, assisted with 80 of the 235 regular estates opened during the period from August 18, 2011 through May 10, 2015.

We discussed these errors with Office personnel, including the Register, who reviewed and agreed with our calculations. The Register advised us that, consistent with the Register of Wills' sole authority to assess and collect inheritance taxes, the aforementioned underpaid taxes would be waived. This decision was made because of the time that had passed, the assets in the estates had been distributed, and collection of these taxes would be an undue burden for the applicable taxpayers. Similarly, the Register stated that the Office would not undertake a review of previously settled estates.

We were advised by legal counsel within the Office of the Attorney General that the Register has sole authority to assess inheritance taxes and, accordingly, has the authority to waive any further assessment of the aforementioned taxes. We were also advised that the Register is not under obligation to initiate a refund for the one tax overpayment noted.

Recommendation 1

We recommend that the Office develop and implement adequate and documented procedures for ensuring that all inheritance taxes due are accurately calculated and paid in accordance with State law.

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Office of the Register of Wills for Kent County, Maryland for the period beginning August 18, 2011 and ending May 10, 2015. The audit was conducted in accordance with generally accepted government auditing standards. Those standards 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.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the Office's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included cash receipts, cash disbursements, bank accounts, and administration of estates.

Our audit did not include a review of certain support services provided to the Office by the Comptroller of Maryland – Office of the Comptroller. These support services (such as payroll, maintenance of accounting records, and related fiscal functions) are included within the scope of our audits of the Office of the Comptroller.

To accomplish our objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of the Office's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected. We also performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

The Office's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial

records, effectiveness and efficiency of operations, including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes a finding relating to a condition that we consider to be a significant deficiency in the design or operation of internal control that could adversely affect the Office's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. This finding is also a significant instance of noncompliance with applicable laws, rules, or regulations.

The Office's response to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Office regarding the results of our review of its response.

APPENDIX



REGISTER OF WILLS

103 N. Cross Street
Kent County Court House
Chestertown, Maryland
21620-1592

Nancy Lee Jewell
Register

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October 15, 2015

VIA DELIVERY BY REGULAR MAIL AND ELECTRONIC DELIVERY

Mr. Thomas J. Barnickel, III CPA
Legislative Auditor
State of Maryland
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston St.
Baltimore, MD 21201

Dear Mr. Barnickel,

The following is the Kent County Register of Wills Office response to the draft Legislative Auditor's Report for the period beginning August 18, 2011 and ending May 10, 2015. The Office agrees with the finding and recommendations.

I concur the office is in the process of developing and implementing document procedures to ensure all inheritance taxes are calculated and paid in accordance with the State law.

I wish to thank you and your staff for the manner in which the audit was conducted.

Sincerely yours,

Nancy Lee Jewell
Register of Wills
Kent County, MD

AUDIT TEAM

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