

**Nassau County**  
**Office of the Comptroller**



**Treasurer's Office**  
**Review of the Administration and Collection of the**  
**County Entertainment Tax Surcharge**

**GEORGE MARAGOS**

*Comptroller*

**August 14, 2015**

**NASSAU COUNTY**  
**OFFICE OF THE COMPTROLLER**

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## Executive Summary

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### **Introduction:**

Nassau County Local Law No. 28-2000 imposes an entertainment surcharge tax of \$1.50 per ticket on events at facilities having a permanent seating capacity in excess of 2,500 seats. This tax is collected by the Office of the Nassau County Treasurer.

### **Purpose:**

The purpose of this review is to examine the Treasurer's administration and collection of this tax.

### **Key Findings:**

- Treasurer's Office did not require event operators to submit missing tax returns and/or information missing from filed tax returns.
- Tax receipts were not always deposited timely.
- Tax returns were not always date stamped to evidence receipt and timely filing.
- Treasurer's Office did not examine the tax returns and supporting documents to ensure taxes were accurately reported. Our review of the event operators' returns found errors and reporting issues that could have been detected had the Treasurer's Office examined the filed returns.

### **Key Recommendations:**

We recommend that the Treasurer's Office:

- review all tax returns upon receipt for completeness and notify event operators in writing of any missing documents or information required by the regulations.
- notify the event operators to submit any missing tax returns immediately and assess the applicable fines in accordance with the regulations;
- deposit all tax receipts collected from tax returns within seven days as required by the County Comptroller's Control Directive for Cash Receipts;
- date stamp all tax returns to evidence receipt to validate the timely filing of the return and/or to assess interest and penalties due for late filing; and
- obtain and review the supporting documentation for a sample of tax returns from event operators on a regular basis to ensure the accuracy and validity of the amount of tax imposed and collected on tickets sold and complimentary tickets issued at events.

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The matters covered in this report have been discussed with the officials of the Treasurer's Office. On July 17, 2015 we submitted a draft letter with the findings to the Treasurer's Office

## **Executive Summary**

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for their review. The Treasurer's Office requested an Exit Conference which was held on August 4, 2015. The Treasurer's Office provided their response on July 28, 2015. Their response and our follow up to their response are included as Appendix B to this report.

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## Introduction

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### **Background**

The Nassau County (“the County”) Administrative Code Article 3a<sup>1</sup> imposes an entertainment surcharge tax of \$1.50 per ticket for entertainment events held in the County for venues with permanent seating capacity in excess of 2,500 seats. Tax-exempt organizations are exempt from the tax<sup>2</sup>.

According to New York Tax Law Chapter 179.2 (Section 1202(d)(iii)), “...such tax may be collected and administered by the county treasurer or other fiscal officers of Nassau county by such means and in such manner as other taxes which are now collected and administered by such officers or as otherwise may be provided by such local law, ordinance or resolution”. In order to be eligible for this exemption, the organization must have a valid tax-exempt certificate and be the direct payer of record.<sup>3</sup> Any person failing to pay the \$1.50 surcharge tax shall be subject to a penalty of fifty percent on the tax amount due plus interest of nine percent compounded daily on the total tax and penalty amount.<sup>4</sup>

Every operator of an event whose receipts from the sale of tickets total \$300,000 or more in any quarter of the preceding four quarters must file an Entertainment Surcharge Tax Return with the Treasurer monthly (on or before the 20<sup>th</sup> day of each month, for the prior month.) All other event operators shall file quarterly (on or before the 20<sup>th</sup> day of the month following the end of the prior calendar quarter.)<sup>5</sup> The return must show: “...the name, address, federal employer identification number... and for each event: the date, the number of tickets sold, the turnstile attendance, the name and location of the facility...and the amount of tax due.”<sup>6</sup> The Treasurer and the Comptroller both have the right to examine all documentation of any operator or sponsor of events held within the County.<sup>7</sup>

The Treasurer’s Office receives the Entertainment Surcharge Tax Returns, deposits the monies submitted with the returns and records the revenue receipts in the Nassau Integrated Financial System (“NIFS”).

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<sup>1</sup> Nassau County Administrative Code, Article 3a Entertainment Surcharge Regulations § 5-90.0 Imposition of Tax

<sup>2</sup> Ibid. §5-93.0 Exemptions.

<sup>3</sup> New York State Department of Taxation and Finance, Publication 843 (12/09), A Guide to Sales Tax in New York State for Exempt Organizations, page 16.

<sup>4</sup> Nassau County Administrative Code, Article 3a Entertainment Surcharge Regulations §5-104.0.a, b.

<sup>5</sup> Ibid. §5-94.0.a. & b.

<sup>6</sup> Ibid. §5-94.0.e.1 and e.2, Returns and payments; overpayments and underpayments.

<sup>7</sup> Ibid. §5-95.0.b states that “The Treasurer and the Comptroller are hereby authorized to examine the books, papers, invoices and other records of any operator or other vendor of tickets or sponsor of events held within the County. To verify the accuracy of the tax imposed and assessed by Local Law, each such person is hereby directed and required to give to the Treasurer and the Comptroller, the means, facilities and opportunity for such examinations as are herein provided for and required”.

## Introduction

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The four event operators subject to the entertainment surcharge tax, in Nassau County, are listed below.

- New York Islanders Hockey Club LP for the New York Islanders hockey games;
- SMG (formerly Spectacor Management Group) as Agent for the New York Islanders Hockey Club for the Nassau Veterans Memorial Coliseum (for non-hockey events);
- Beach Concerts Inc. (subsidiary of Live Nation) for the Nikon at Jones Beach Theater; and
- Westbury Music Fair LLC (subsidiary of Live Nation) for NYCB Theatre at Westbury.

As shown in Exhibit I, the Treasurer collected a total of \$4.7 million in surcharge taxes from January 2012 to March 31, 2014.

### Exhibit I

#### Treasurers Entertainment Surcharge Tax Revenue January 1, 2012 to March 31, 2014

<u>Venues</u>	<u>12 Months</u>		<u>3 Months</u>	<u>Total</u>	<u>%</u>
	<u>2012</u>	<u>2013</u>	<u>2014</u>		
New York Islanders <sup>1</sup>	\$ 403,507	\$ 911,187	\$ 348,308	\$1,663,002	35.6%
Jones Beach Theater	582,554	504,534	206,268	1,293,356	27.7%
Nassau Veterans Memorial Coliseum <sup>2</sup>	542,603	491,227	229,744	1,263,574	27.0%
NYCB Theatre at Westbury	211,311	209,001	32,349	452,661	9.7%
<b>Total</b>	<b><u>\$1,739,975</u></b>	<b><u>\$2,115,949</u></b>	<b><u>\$ 816,669</u></b>	<b><u>\$4,672,593</u></b>	<b><u>100.0%</u></b>

<sup>1</sup> Revenues in 2012 were lower due to the hockey lockout.

<sup>2</sup> The amount shown for 2012 includes a tax adjustment of \$358.50.

Source: NIFS

## Introduction

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Exhibit II summarizes the total number of tickets issued by each event operator subject to the surcharge tax from January 1, 2012 through March 31, 2014.

### Exhibit II

#### **Treasurers Entertainment Surcharge Tax Total Tickets January 1, 2012 to March 31, 2014**

<u>Venues</u>	<u>Number of Tickets Issued</u>			
	<u>12 Months</u>		<u>3 Months</u>	
	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>Total</u>
New York Islanders <sup>1</sup>	269,005	607,458	232,205	1,108,668
Jones Beach Theater	388,369	336,356	137,512	862,237
Nassau Veterans Memorial Coliseum	361,496	327,485	153,163	842,144
NYCB Theatre at Westbury	140,874	139,334	21,566	301,774
<b>Total Tickets</b>	<b><u>1,159,744</u></b>	<b><u>1,410,633</u></b>	<b><u>544,446</u></b>	<b><u>3,114,823</u></b>

<sup>1</sup>The number of tickets sold in 2012 were lower due to the hockey lockout.

Source: Nassau County Entertainment Surcharge Tax Returns

### Audit Scope, Objectives, and Methodology

The audit period was from January 1, 2012 to March 31, 2014.

The objective of the audit of the Treasurer's roles and responsibilities was to ensure that the Treasurer's Office:

- reviews the tax returns for accuracy, completeness and timely filing and performs any necessary follow-up;
- deposits the tax receipts in the Bank in a timely manner; and
- records the revenue in NIFS in a timely manner.

Our review of the Treasurer's Office included testing of the Treasurer's receipt and review of the tax returns, the collection of interest for late filing and the timely deposit of tax receipts in the bank and NIFS.



## Introduction

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A separate review was also performed of each event operator covered in individual reports addressed to each event operator. The event operator segment of our review involved comparing the information reported on the Surcharge Tax Returns to numerous Ticketmaster reports<sup>8</sup> provided by the event operators. See the Appendix for an Event Listing. We also examined the event operators' support documents for any tax-exempt tickets reported on the tax returns. Each event operator's report can be found on the Comptroller's website.

We believe our review provides a reasonable basis for the findings and recommendations contained herein.

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<sup>8</sup> Ticketmaster reports are used by the event operators to record all tickets sold and complimentary tickets issued for all events on the tax returns.

## Findings and Recommendations

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### **Audit Finding:**

#### **(1) The Treasurer's Office Did Not Require Event Operators to Submit Information Missing from 59 of 105 Tax Returns**

Our review revealed that the Treasurer's Office does not review the Entertainment Tax Returns for completeness.

The regulation states the Treasurer will prescribe the form of the return and the return must show for each event, the date, the number of tickets sold, the turnstile attendance and the amount of tax due<sup>9</sup>...etc. The Entertainment Tax Return requires that a Schedule A<sup>10</sup>, which lists this required information, be completed for each separate event.

Our review revealed that 59 of 105 Entertainment Tax Returns filed were either missing the required Schedule A or the Schedule A was missing required information. The Schedule A information is needed to verify the accuracy of the event operator's computation of the number of tickets subject to the tax and the tax amount due.

Additionally, two returns (May 2012 and May 2013) were never filed by SMG and the Treasurer's Office did not request their submission. The Treasurer's Office representatives stated that no returns were filed because SMG did not have revenue during those months. Per the tax return instructions, SMG must file a Monthly Return<sup>11</sup>. The regulation<sup>12</sup> states, "...the treasurer shall investigate any failure to pay the tax required by Local Law or any other failure to comply with the Local Law..."

Exhibit III summarizes the information missing from the 59 tax returns submitted by event operators. Two event operators, Beach Concerts and Westbury Music Fair, accounted for 54 of the 59 tax returns that were missing information. Timely notification of missing information by the Treasurer's Office to the event operators would likely have minimized repeat occurrences of the same problem.

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<sup>9</sup> Nassau County Administrative Code, Article 3a Entertainment Surcharge Regulations §5-94.0.e.1 and e.2, Returns and payments; overpayments and underpayments.

<sup>10</sup> Schedule A shows the dates of each event, the number of taxable tickets, turnstile attendance, penalties and interest, and total tax amount.

<sup>11</sup> Per the tax return, if any of the prior four quarters resulted in \$300,000 or more in receipts, "...then you must file a Monthly Return...". SMG met the \$300,000 threshold and was subject to this requirement.

<sup>12</sup> Nassau County Administrative Code, Article 3a Entertainment Surcharge Regulations §5-95-0.c, Records to be kept; examination.

## Findings and Recommendations

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### Exhibit III

#### Entertainment Surcharge Tax Returns Missing Required Information January 1, 2012 through March 31, 2014

Year	Event Operator	Missing Forms		Information Missing	
		Schedule A	Turnstile Attendance	Number of Tax Returns	
2012	Beach Concerts Inc.		January - December		12
2012	Westbury Music Fair LLC	December	January - November		12
2012	SMG	January <sup>1</sup>	January <sup>2</sup> , July, October		3
2013	Beach Concerts Inc.		January - December		12
2013	Westbury Music Fair LLC	January - December			12
2013	SMG		March, June		2
2014	Beach Concerts Inc.		January - March		3
2014	Westbury Music Fair LLC	February, March	January		3
	<b>Total</b>				<b><u>59</u></b>

<sup>1</sup> Schedule A was omitted from the tax return for the Disney On Ice event.

<sup>2</sup> The turnstile attendance count was missing from Schedule A for the Monster Truck event.

#### **Audit Recommendation(s):**

We recommend that the Treasurer's Office review all tax returns upon receipt for completeness and notify event operators in writing of any missing documents or information required by the regulations. Such a review should be documented and reviewed by a supervisor. Any missing tax returns need to be requested immediately and assessed the applicable fines in accordance with the regulations.

#### **Audit Finding:**

#### **(2) Tax Receipts Were Not Always Deposited in the Bank Timely and Tax Returns Were Not Always Date Stamped**

Our review found that the surcharge tax collected was not consistently deposited in the Bank in a timely manner. We also found instances where the receipt of tax returns was not evidenced with the Treasurer's date stamp. The specific findings are summarized below.

## Findings and Recommendations

### Tax Receipts Not Deposited Timely

The County Comptroller's Control Directive for Cash Receipts states "Departments must deposit the cash receipts with the County Treasurer at times designated by him or in no instance less frequently than once a week."<sup>13</sup>

We selected tax returns for twelve months and tested 45 deposits totaling \$2,505,893 in tax receipts and compared the dates the tax returns were received by the Treasurer (per the Treasurer's date stamp) to the bank deposit dates. We found \$158,361 or 6.3% of the deposits were made 1 to 20 days past the 7 day time frame. Cash receipts should be deposited as soon as possible, to minimize the risk of loss or theft and to maximize the interest revenue on the funds. The best practice is to "deposit moneys as soon as possible"<sup>14</sup> to safeguard assets.

Exhibit IV summarizes the cash receipts that were not deposited in the bank within the seven day time frame.

### **Exhibit IV**

#### **Entertainment Surcharge Tax Return Receipts Not Deposited Within Seven Days January 1, 2012 through March 31, 2014**

<u>Filing Year</u>	<u>Event Operator</u>	<u>Filing Month</u>	<u>Date Received</u>	<u>Date of Deposit</u>	<u>Number of Days to Deposit</u>	<u>Tax Paid and Deposited</u>
2012	SMG	September	23-Oct	2-Nov	10	\$ 40,348
2013	Beach Concerts Inc.	September	16-Oct	12-Nov	27	5,625
2013	SMG	September	21-Oct	12-Nov	22	24,902
2013	SMG	November	20-Dec	31-Dec	11	55,884
2013	Westbury Music Fair LLC	May	13-Jun	1-Jul	18	21,895
2014	Westbury Music Fair LLC	February	17-Mar	25-Mar	8	9,707
	<b>Total</b>					<b>\$ 158,361</b>

### Tax Returns Not Date Stamped to Evidence Receipt

Our review found that 27 of 105 tax returns received by the Treasurer's Office during the audit period (or 25.7%) did not include the Treasurer's date stamp to evidence when the returns were received. This information is needed to determine whether the returns were received on time (on or before the 20th day of the month following the month for which the tax period ended) and, if necessary, to calculate 9% interest and the 50% penalty due for filing late.

<sup>13</sup> Nassau County Office of the Comptroller, Control Directive 3:Cash Receipts.4, page 4.

<sup>14</sup> Office of the New York State Comptroller, The Practice of Internal Controls (October 2010). Section 1 - Cash Receipts -Deposit Procedures 1-2-2 Deposit cash timely.

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## Findings and Recommendations

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Exhibit V summarizes the tax returns that were not date stamped by the Treasurer's Office upon receipt.

### Exhibit V

#### Entertainment Surcharge Tax Returns Missing Treasurer Date Stamp January 1, 2012 through March 31, 2014

<u>Year</u>	<u>Month</u>	<u>Taxes Paid</u>
2012	April	\$ 77,226
2012	December	44,478
2013	February	141,982
2013	March	101,940
2013	March	148,219
2013	March	25,161
2013	April	105,322
2013	April	34,715
2013	May	69,177
2013	May	72,297
2013	July	64,185
2013	July	6,287
2013	July	25,791
2013	August	26,382
2013	August	13,172
2013	September	13,925
2013	September	15,492
2013	October	14,145
2013	November	3,359
2013	November	135,972
2013	December	99,061
2014	January	140,425
2014	February	49,058
2014	February	61,880
2014	March	110,901
2014	March	146,002
2014	March	12,303
	<u>27</u>	<u>\$ 1,758,857</u>

## **Findings and Recommendations**

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### **Audit Recommendation(s):**

We recommend that the Treasurer's Office take the necessary corrective actions to:

- a) deposit all monies collected from tax returns within seven days in accordance with the County Comptroller's Control Directive for Cash Receipts; and
- b) date stamp all surcharge tax returns to evidence receipt for use to validate timely filing or the assessment of interest and penalties due for late filing.

### **Audit Finding:**

#### **(3) The Treasurer's Office Did Not Examine Supporting Records to Verify the Accuracy of Tax Due**

Our review revealed that the Treasurer's Office has not been exercising its authority to examine the tax return and supporting documents to ensure that the taxes are computed correctly on the Entertainment Surcharge Tax Returns. According to Nassau County Administrative Code<sup>15</sup>, the Treasurer and the Comptroller both have the right to examine all documentation of any operator or sponsor of events held within the County to verify accuracy.

Our separate review of each event operator's tax returns, filed from January 2012 through March 2014, revealed errors and reporting issues that could have been detected and resolved sooner had the Treasurer's Office examined the returns when filed.

We vouched the information reported on the Surcharge Tax Returns to support provided by the event operators, including Ticketmaster reports<sup>16</sup> and proof of tax exempt status for any tax-exempt tickets listed on the tax returns. The final report issued to each event operator can be found on the Comptroller's website. The findings included in these individual reports are summarized below. The amounts shown as due to the County include interest and penalties:

- Westbury Music Fair LLC owes the County \$548,198 for 190,268 tickets related to events claimed to have a seating capacity of less than 2,500 seats and for 23,973 tickets related to other events where the incorrect number of tickets were reported or the tax exempt status claimed could not be supported.

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<sup>15</sup> The Nassau County Administrative Code §5-95.0.b states that "The Treasurer and the Comptroller are hereby authorized to examine the books, papers, invoices and other records of any operator or other vendor of tickets or sponsor of events held within the County. To verify the accuracy of the tax imposed and assessed by Local Law, each such person is hereby directed and required to give to the Treasurer and the Comptroller, the means, facilities and opportunity for such examinations as are herein provided for and required".

<sup>16</sup> Ticketmaster reports are used by the event operators to record all tickets sold and complimentary tickets issued for all events on the tax returns.

## **Findings and Recommendations**

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- SMG owes the County a total of \$176,523 for 65,381 seats sold with no proof of tax-exempt status and for 1,323 tickets sold but not included on the tax returns.
- Beach Concerts Inc. owed the County a total of \$2,488 on 984 Complimentary Tickets issued to the media; a check for this amount was remitted to the Treasurer on June 22, 2015.
- No exceptions were found on the tax returns filed by the New York Islander Hockey Club LP; and thus no report was issued to this event operator.

### **Audit Recommendation(s):**

We recommend that the Treasurer's Office regularly obtain and review the supporting documentation for a sample of Entertainment Surcharge Tax Returns received from event operators to ensure the accuracy and validity of the amount of tax imposed and collected on tickets sold at events.

## Appendix A – Event Listing

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### Event Listing <sup>1</sup>

#### Nassau Veterans Memorial Coliseum New York Islanders

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Anaheim Ducks  
Boston Bruins  
Buffalo Sabres  
Calgary Flames  
Carolina Hurricanes  
Chicago Blackhawks  
Colorado Avalanche  
Columbus Blue Jackets  
Dallas Stars  
Detroit Red Wings  
Edmonton Oilers  
Florida Panthers  
Los Angeles Kings  
Minnesota Wild  
Montreal Canadiens  
Nashville Predators  
New Jersey Devils  
NY Rangers  
Orange & Blue Scrimmage  
Ottawa Senators  
Philadelphia Flyers  
Phoenix Coyotes  
Pittsburgh Penguins  
San Jose Sharks  
St. Louis Blues  
Tampa Bay Lightning  
Toronto Maple Leafs  
Vancouver Canucks  
Washington Capitals  
Winnipeg Jets

#### Nassau Veterans Memorial Coliseum SMG

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Aerosmith  
American Idol  
Amor  
Beer Fest  
Bollywood Sonu Nigam  
Brad Paisley  
Carrie Underwood  
Circus  
Cirque De Soleil  
Cirque / Michael Jackson  
Dead Ma5  
Demi Lovato  
Disney Live Mickey  
Disney on Ice  
Disney Phineas & Ferb  
Fire Ems  
Harlem Globe Trotters  
How to Train your Dragon  
Jay-Z  
Jeff Dunham  
Kanye West  
LMFAO  
Long Island Boat  
Luke Bryan  
Marc Anthony  
Miranda Lambert  
Monster Truck  
New Edition  
NJ Nets & Knicks  
NKOTB  
Pink  
Rammstein  
RFAK Indian Show  
Ricardo Arjona  
Rick Ross  
Ringling Bros & Barnum & Bailey  
Rise Against  
Romeo Santos  
Sesame Street  
Tatoo Expo  
The Who  
Trans Siberian  
Vans Warped Tour  
Vicente Fernandez  
WWE

<sup>1</sup> This is a list of events by venue, held during the audit period. All events may not be listed.



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## Appendix A – Event Listing

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### Event Listing<sup>1</sup> (continued)

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#### Jones Beach Theatre

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311	Foreigner / Styx/ Don Felder	Motley Crue
311 / Slightly Stoopid	Goo Goo Dolls / Daughtry	Neil Diamond
3 Doors Down / Daughtry	Heart / Jason Bonham's Led Zeppelin Experience	Nine Inch Nails
Allman Brothers Band	Honda Civic Tour Featuring Maroon 5	O.A.R. (...of a revolution.)
Allman Brothers Band / Santana	Huey Lewis and the News	One Direction
Americanarama	Identity Tour	One Republic / The Script
Backstreet Boys	Imagine Dragons	Peter Frampton / The Doobie Brothers
Barenaked Ladies	Iron Maiden	Peter Gabriel
Barry Gibb	Jack Johnson	Phish
Beach Boys	James Taylor	Pitbull & Kesha
Big Time Rush	Jason Mraz	Rascal Flatts
Big Time Rush / Victoria Justice	Jimmy Buffet	Ringo Starr & His All Starr Band
Black Crowes / Tedeschi Trucks Band	Joe Cocker/Huey Lewis & The News	Rockstar Energy Uproar Festival
Blake Shelton	John Mayer	Rod Stewart / Santana
WBLI Summer Jam	Jonas Brothers	Rush
Boston / Cheap Trick	Journey	Scorpions Farewell Tour
Brad Paisley	Kelly Clarkson / The Fray	Stevie Nicks
Caribbean Beachfest	Kings of Leon	Sublime with Rome
Chicago / Doobie Brothers	KISS / Def Leppard	System of Down
Chicago / REO Speedwagon	KISS / Motley Crue	Rascals
Dave Matthews Band	Lady Antebellum	Train
Def Leppard	Lil Wayne	Warped Tours
Depeche Mode	Linkin Park / Incubus	Wiz Khalifa / ASAP Rocky
Drake	Lionel Richie	Wiz Khalifa / Mac Miller
Fall Out Boy / Paramore	Mary J. Blige	Yanni
Fleetwood Mac	Matchbox 20 / Goo Goo Dolls	
Florence and the Machine	Maze featuring Frankie Beverly	

<sup>1</sup> This is a list of events by venue, held during the audit period. All events may not be listed.

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**Appendix A – Event Listing**

**Event Listing <sup>1</sup> (continued)**

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**NYCB Theatre at Westbury**

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1964: The Tribute	Dion	Jerry Seinfeld	Rhythm of the Dance
70s Soul Jam	Don Rickles	Joan Rivers	Ron White
Al Green	Doo Wop	John Kay & Steppenwolf	Shankar Ehsaan
Alabama	Eddie Griffin	John Pinette	Smokey Robinson
America	En Vogue	Johnny Mathis	Spring Doo Wop
Annual Vday Ball	Engelbert Humperdinck	Jonas Brothers	Steve Vai
April Fools Comedy	Fall Doo Wop	Kenny Loggins	Steve Winwood
Artie Lange	Father Charles & Laurie	Kenny Rogers	Straight No Chaser
Asia	Frankie Valli	Kevin James	Teen Idols
B-52's	Fresh Beat Band	Lewis Black	Temptations & 4 Tops
Ballroom With A Twist	George Lopez	LI Cares Event	The Beach Boys
BB King	Gladys Knight	LI Comedy Fest	The Fresh Beat Band
Bell Bottom Ball	Golden Boys	Lisa Lampanelli	The Golden Boys
Bill Burr	Graham Nash	Liza Minnelli	The O'Jays
Bill Maher	Greg Lake	Long Island Comedy Fest	The Whispers
Bill O'Reilly	Happy Together	Lynard Skynard	The Wiggles
Bob Weir	Haunted Halloween	Magic School Bus	Theresa Caputo
Brian Regan	Holiday Doo Wop	Marshall Tucker Band	TNA Wrestling
Brian Setzer Orchestra	Hot Autumn Nights	Martina McBride	Tony Bennett
Brit Floyd	Il Volo	Max & Ruby	Tony Braxton
Celtic Thunder	Imagin/Ocean	Michael Amante	Trace Adkins
Cesar Milan	Imagination Movers	Michael McDonald	Trisha Yearwood
Charlie Daniels Band	Irish Tenors	Mike Epps	Wanda Sykes
Cheech & Chong	J. Black/B. Medley	Mindless Behavior	Willie Nelson
Chelsea Handler	J. Geils Band	Moody Blues	Yes
Chicago	Jack Black	Neil Sedaka	Yes & Procol Harum
Chris Tucker	Jackie Mason	One Life 2 Live	Yes/ The Albums
Crosby Stills & Nash	Jay Black	Patti LaBelle	Yolo Presents
Darius Rucker	Jeff Dunham	Paul Anka	ZZ Top

<sup>1</sup> This is a list of events by venue, held during the audit period. All events may not be listed.

## Appendix B – Treasurer’s Response and Auditor’s Follow-up

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EDWARD P. MANGANO  
COUNTY EXECUTIVE



BEAUMONT A. JEFFERSON  
COUNTY TREASURER

ROLANDO S. FERNANDO  
DEPUTY COUNTY TREASURER

COUNTY OF NASSAU  
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1 WEST STREET  
MINEOLA, NEW YORK 11501

July 28, 2015

Joann Greene  
Field Audit Director  
Nassau County Comptroller  
240 Old Country Road, 2<sup>nd</sup> Floor  
Mineola, NY 11501

Dear Ms. Greene:

We have reviewed the comments and recommendations from the “Review of the Administration and Collection of the County Entertainment Surcharge Tax”. The Treasurer’s Office thanks the Comptroller’s Office Field Audit Division for their expertise in conducting this audit. As a result of this audit, we have reviewed the processing procedures with the staff and implemented new procedures as needed.

We received a Letter of Engagement from the Field Audit Division on April 16, 2014 and the final Audit report on July 17, 2015. Field Audit Protocol (Rev 01/11) states that Field work is expected to be completed within 30 days and preliminary findings would be communicated to the auditee as field work progresses. During the fifteen-month period from engagement to final audit report, we were not provided with any feedback that could have been used to timely correct any issues that existed and update our procedures, if needed.

We reviewed the Audit Findings and recommendations (below in black), and following are our responses (in blue):

**Audit Finding (1)**

**The Treasurer’s Office Did Not Require Event Operators to Submit Information Missing from 59 of 105 Tax Returns**

**Comptroller’s Audit Recommendation(s):**

We recommend that the Treasurer’s Office review all tax returns upon receipt for completeness and notify event operators in writing of any missing documents or information required by the regulations. Such a review should be documented and reviewed by a supervisor. Any

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## Appendix B – Treasurer’s Response and Auditor’s Follow-up

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missing tax returns need to be requested immediately and assessed the applicable fines in accordance with the regulations.

### **Response to Audit Finding (1):**

We agree that all tax returns should be reviewed for completeness and have reviewed the importance of this with the staff. The finding is primarily for missing turnstile information on the schedule “A”. The turnstile information cannot always be reported on a schedule “A” since the taxes being reported could be for shows that are scheduled to occur several months after the tickets are sold and at the time of the report filing, no turnstile information is available.

### **Audit Finding (2)**

#### **Tax Receipts Were Not Always Deposited in the Bank Timely and Tax Returns Were Not Always Date Stamped**

#### **Comptroller’s Audit Recommendation(s):**

We recommend that the Treasurer’s Office take the necessary corrective actions to:

- a) deposit all monies collected from tax returns within seven days in accordance with the County Comptroller’s Control Directive for Cash Receipts; and
- b) date stamp all surcharge tax returns to evidence receipt for use to validate timely filing or the assessment of interest and penalties due for late filing

### **Response to Audit Finding (2):**

- a) We agree, and it is our goal to timely post all funds to the financial system and deposit in the bank. A review of the sample indicates that all monies were deposited and most deposits were posted within 3 business days. The dates cited in the report do not take into account various factors and do not indicate the date we posted to the financial system.
  - The September 2012 return received on October 23, 2012 and posted in bank on November 2, 2012 for \$40,348.00 does not take into account that Super Storm Sandy occurred during that time.
  - The November 2013 return received on December 20, 2013 and deposited on December 31, 2013 was posted to the financial system on December 27, 2013 (documentation included). December 20, 2013 was a Friday and Christmas was the following Wednesday. This deposit was processed and recorded in the financial system within four business days of receipt.
  - The February 2014 return received on March 17, 2014 was entered into the financial system on March 21, 2014, four business days after receipt.
  - The September 2013 returns were filed late due to transition of the function to another employee. In addition, the deposit recorded in the financial system was on November 7, 2013. Audit finding states that date of deposit was November 12, 2013.
- b) We agree that all returns should be time-stamped, and we will enforce this with the staff. We also want to point out that receipt of the return is evidenced by the date recorded in the financial system. This information was the source used by the reviewer to determine that the returns were received before the deadline.

**Audit Finding (3):**

**(3) The Treasurer’s Office Did Not Examine Supporting Records to Verify the Accuracy of Tax Due**

**Audit Recommendation(s):**

We recommend that the Treasurer’s Office regularly obtain and review the supporting documentation for a sample of Entertainment Surcharge Tax Returns received from event operators to ensure the accuracy and validity of the amount of tax imposed and collected on tickets sold at events.

**Response to Audit Finding (3):**

We agree with this finding, and we have asked the venues for a full calendar of events and will request additional information to verify returns.

As highlighted in an email dated February 24, 2011, the prior Treasurer requested audit assistance from the Comptroller’s Field Audit Division. The expertise, staffing and authority of the Comptroller’s Field Audit Division provides the County with resources that are currently not available in the Treasurer’s Office.

Sincerely,



Beaumont A. Jefferson  
County Treasurer

**Appendix B – Treasurer’s Response and Auditor’s Follow-up**

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FAML4255 V4.2  
 LINK TO:

NIFS PRODUCTION SYSTEM  
 RIMS DETAIL DOCUMENT

12/27/2013  
 3:05 PM

RIMS CODE : ENT.TAX ENTERTAINMENT SURCHARGE REVENUE  
 RIMS SURETY : 01 POST PERIOD : AMOUNT 55,884.00

TRANS CODE : 708 CASH RECEIPT DISTRIBUTION TO A REVENUE ACCOUNT  
 DOCUMENT REF :  
 TRANS DESC. : ENT SURCHARGE TAX-SMG AT NASAU COLLISEUM 11 2013  
 TRANS AMOUNT : 55,884.00 TRANS NET AMT : .00

INDEX : TRGEN1300 ACCOUNTING  
 SUBOBJECT : R1194 ENTERTAINMENT TAX

UCODE/ORD#/DRC :

GRANT :

GRANT DETAIL :

PROJECT :

PROJECT DETAIL :

VENDOR NO/NAME :

GL ACCOUNT :

SUBSIDIARY :

BANK NUMBER : 1WN

TREAS NO :

FINANCIAL ERRORS :

F1-HELP      F2-SELECT      F3-DELETE      F4-PRIOR      F5-NEXT      F6-BASIC  
 F7-VIEW DOC      F9-LINK      F10-SAVE      F12-PARTIAL

G014 - RECORD FOUND

**Paragraph from the Letter from the Treasurer’s Office, dated July 28, 2015 that included the Treasurer’s responses to the draft report.**

“We received a Letter of Engagement from the Field Audit Division on April 16, 2014 and the final Audit report on July 17, 2015. Field Audit Protocol (Rev 01/11) states that Field work is expected to be completed within 30 days and preliminary findings would be communicated to the auditee as field work progresses. During the fifteen-month period from engagement to final audit report, we were not provided with any feedback that could have been used to timely correct any issues that existed and update our procedures, if needed.”

**Auditor’s Follow-Up:**

*The statement above made by the Treasurer’s Office “During the fifteen month period from the engagement to final audit report, we were not provided with any feedback....” is not accurate. The auditors communicated the preliminary findings to the Deputy County Treasurer in May 2014 and also in June and July of 2015. Below is an excerpt from an email sent by the auditors to the Treasurer’s Office on July 29, 2015 to document when the Treasurer’s Office was advised of the preliminary findings:*

*The fieldwork at the Treasurer’s Office in 2014 was the ground work for the auditors to then go to the New York Islanders, Nassau Veterans Memorial Coliseum (SMG), NYCB Theatre at Westbury and Jones Beach Theater and perform a review of the events at those locations, against what was reported to the County. The audit notes reflect a discussion with the Deputy County Treasurer on both May 2nd and May 5<sup>th</sup>, 2014 regarding the first two findings.*

*Three of the venue audits required extensive audit work and found money owed to the County. When the auditors completed those reviews, they then compiled the few findings from their 2014 period at the Treasurer’s Office and wrote them up to make the audit recommendations. The audit manager discussed these in a phone call in June 2015 with the Deputy County Treasurer and again in person on July 8, 2015.*

**Audit Finding (1)**

**The Treasurer’s Office Did Not Require Event Operators to Submit Information Missing from 59 of 105 Tax Returns**

**Comptroller’s Audit Recommendation(s):**

We recommend that the Treasurer’s Office review all tax returns upon receipt for completeness and notify event operators in writing of any missing documents or information required by the regulations. Such a review should be documented and reviewed by a supervisor. Any missing tax returns need to be requested immediately and assessed the applicable fines in accordance with the regulations.

**Response to Audit Finding (1):**

We agree that all tax returns should be reviewed for completeness and have reviewed the importance of this with the staff. The finding is primarily for missing turnstile information on the schedule “A”. The turnstile information cannot always be reported on a schedule “A” since the taxes being reported could be for shows that are scheduled to occur several months after the tickets are sold and at the time of the report filing, no turnstile information is available.

**Auditor’s Follow-up:**

*We concur with the corrective action taken by the Treasurer’s Office to review all tax returns upon receipt for completeness.*

*We reiterate the portion of the recommendation related to the Treasurer’s Office notifying the event operators to submit missing documents or information required by the regulations. Turnstile information is available after the event has occurred and is necessary to verify that the number of “sold” tickets reported on the tax return is accurate and the correct amount of taxes were computed and paid to the County.*

**Audit Finding (2)**

**Tax Receipts Were Not Always Deposited in the Bank Timely and Tax Returns Were Not Always Date Stamped**

**Comptroller’s Audit Recommendation(s):**

We recommend that the Treasurer’s Office take the necessary corrective actions to:

- a) deposit all monies collected from tax returns within seven days in accordance with the County Comptroller’s Control Directive for Cash Receipts; and
- b) date stamp all surcharge tax returns to evidence receipt for use to validate timely filing or the assessment of interest and penalties due for late filing.

**Response to Audit Finding (2):**

a) We agree, and it is our goal to timely post all funds to the financial system and deposit in the bank. A review of the sample indicates that all monies were deposited and most deposits were posted within 3 business days. The dates cited in the report do not take into account various factors and do not indicate the date we posted to the financial system.

- The September 2012 return received on October 23, 2012 and posted in bank on November 2, 2012 for \$40,348.00 does not take into account that Super Storm Sandy occurred during that time.



## Appendix B – Treasurer’s Response and Auditor’s Follow-up

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- The November 2013 return received on December 20, 2013 and deposited on December 31, 2013 was posted to the financial system on December 27, 2013 (documentation included). December 20, 2013 was a Friday and Christmas was the following Wednesday. This deposit was processed and recorded in the financial system within four business days of receipt.
- The February 2014 return received on March 17, 2014 was entered into the financial system on March 21, 2014, four business days after receipt.
- The September 2013 returns were filed late due to transition of the function to another employee. In addition, the deposit recorded in the financial system was on November 7, 2013. Audit finding states that date of deposit was November 12, 2013.

b) We agree that all returns should be time-stamped, and we will enforce this with the staff. We also want to point out that receipt of the return is evidenced by the date recorded in the financial system. This information was the source used by the reviewer to determine that the returns were received before the deadline.

### **Auditor’s Follow-up:**

(a) *We concur with the goal of the Treasurer’s Office to timely deposit tax receipts in the bank in accordance with the County Comptroller’s Control Directive for Cash Receipts.*

*However, the inclusion in the Treasurer’s response of the dates tax receipts were entered in the County’s financial system is not relevant to the extent the actual date of the bank deposit is later. The audit found that the bank deposits themselves were not made within the 7 days of the receipt date as required by the Comptroller’s Control Directive.*

*Their response for the late deposits were Super Storm Sandy, Christmas Holiday and transition of the function from one employee to another.*

(b) *We concur with the corrective action taken by the Treasurer’s Office to enforce the need to date stamp all surcharge tax returns upon receipt.*

*With respect the portion of the Treasurer’s response that states, “We also want to point out that receipt of the return is evidenced by the date recorded in the financial system. This information was the source used by the reviewer to determine that the returns were received before the deadline.”, the auditors only looked for the existence of a date stamp. The finding does not mention anything about using the date the receipt was recorded in the financial system to determine that the returns were received before the deadline. This is because the date recorded in the financial system is not evidence of the date the tax return was received.*

**Audit Finding (3):**

**(3) The Treasurer’s Office Did Not Examine Supporting Records to Verify the Accuracy of Tax Due**

**Comptroller’s Audit Recommendation(s):**

We recommend that the Treasurer’s Office regularly obtain and review the supporting documentation for a sample of Entertainment Surcharge Tax Returns received from event operators to ensure the accuracy and validity of the amount of tax imposed and collected on tickets sold at events.

**Response to Audit Finding (3):**

We agree with this finding, and we have asked the venues for a full calendar of events and will request additional information to verify returns.

As highlighted in an email dated February 24, 2011, the prior Treasurer requested audit assistance from the Comptroller’s Field Audit Division. The expertise, staffing and authority of the Comptroller’s Field Audit Division provides the County with resources that are currently not available in the Treasurer’s Office.

**Auditor’s Follow-up:**

*We concur with the corrective action taken by the Treasurer’s Office to request additional information to verify returns. We reiterate that the Treasurer’s Office should do this on a regular basis for a sample of tax returns filed by event operators. This should be done by the Treasurer’s Office in addition to audits performed by the Comptroller’s Field Audit Division.*

Please also refer to the related Entertainment Tax Surcharge audits listed below with accompanying links:

Review of Entertainment Surcharge Tax – Nikon at Jones Beach Theater (Managed by Beach Concerts, Inc. a subsidiary of Live Nation), July 1, 2015

<http://www.nassaucountyny.gov/DocumentCenter/View/12378>

Review of Entertainment Surcharge Tax – NYCB Theatre at Westbury (Managed by the Westbury Music Fair LLC, a subsidiary of Live Nation), June 22, 2015

<http://www.nassaucountyny.gov/DocumentCenter/View/12245>

Review of SMG’s (formerly Spectacor Management Group) Nassau County Entertainment Tax Review, May 19, 2015

<http://www.nassaucountyny.gov/DocumentCenter/View/12017>