



# AUDIT REPORT



**DATE** August 9, 2019

**NO.** 2019-009

**FOLLOW-UP COUNTY REVENUES  
TAXABLE TRANSACTIONS**

**(ORIGINAL REPORT NO. 2017-007 ISSUED DECEMBER 29, 2017)**

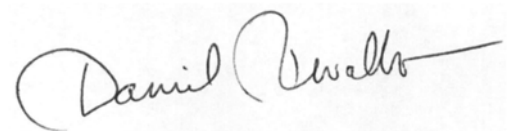
INTERNAL AUDIT DIVISION  
ROGER D. EATON  
CLERK OF THE CIRCUIT COURT AND COUNTY COMPTROLLER  
CHARLOTTE COUNTY FLORIDA

Honorable Roger D. Eaton  
Charlotte County Clerk of the Circuit Court and Comptroller  
350 East Marion Avenue  
Punta Gorda, Florida 33950

We have completed a follow-up audit of Charlotte County Revenues Taxable Transactions (Original Report No. 2017-007 issued December 29, 2017). The purpose of this follow-up was to ensure comments and recommendations of the original audit were adequately addressed.

The report details the original audit comments, recommendations, and follows up on the original responses provided. Follow-up was accomplished thru inquiries and observations of evidence. Management responses have been included and immediately follow the audit report.

Respectfully submitted,

A handwritten signature in black ink that reads "Daniel Revallo". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Daniel Revallo  
Internal Audit Director

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## EXECUTIVE SUMMARY

The Internal Audit Division performed a follow-up audit of Charlotte County Revenues Taxable Transactions.

Follow-up audits are limited to the comments and recommendations made in the Charlotte County Revenues Taxable Transactions Audit Report dated December 29, 2017. This follow-up considers the responses documented and any subsequent corrective actions taken or delegated.

This follow-up audit report will conclude the original audit, as it pertains to Charlotte County Revenues Taxable Transactions.

The status of any corrective actions will be assigned as follows:

**OPEN** – Corrective action has not been taken to adequately address the original audit comment.

**OPEN/PARTIALLY COMPLETED** – Corrective action has started but has not adequately addressed the original audit comment.

**CLOSED** – Corrective action has been taken to adequately address the original audit comment.

### **Original Audit Comments and Status of Corrective Actions**

#### **OPEN**

- Policies and procedures should be developed and implemented over County-wide revenue collections to ensure proper classification and correct treatment over those collections that are subject to sales and use tax.
- Documentation required by Florida Statutes and Florida Administrative Code to establish the exempt nature of County “sales made to exempt entities” is not being obtained from the purchaser.
- The County-wide monthly sales tax return cannot be prepared in accordance with Florida Department of Revenue guidelines since taxable and exempt sales are not reported by the County departments.

#### **OPEN/PARTIALLY COMPLETED**

- The Solid Waste Division of Public Works is not collecting sales tax and discretionary sales surtax on taxable transactions.
- Documentation required by Florida Statutes and Florida Administrative Code to establish the exempt nature of County “sales made for resale” is not being obtained from the purchaser.

## BACKGROUND

Charlotte County departments and divisions generate revenue from a wide range of sources. The authority for generating revenues is derived from the State Constitution, Florida Law, and home ruling authority. Examples of revenue sources authorized by the State Constitution are Ad Valorem Taxes and Constitutional Fuel Tax. Examples of revenues authorized by the legislature are state revenue sharing, discretionary sales surtax, local option fuel taxes, local business taxes, and fines and forfeitures. Examples of revenues authorized by home ruling authority are proprietary fees, regulatory fees, and special assessments. Counties may also charge for the facilities and services they provide and regulate in a reasonable and equitable manner.

### Florida Sales Tax

The legislature of Florida, pursuant to Chapter 212 Florida Statutes, has established that every **person is exercising a taxable privilege who engages in the business of selling or renting anything of value**. Section 212.02(12), F.S., defines "**person**" to include **political subdivisions and municipalities**. Section 212.02(2), F.S., defines "business" as "any activity engaged in by any person, or caused to be engaged in by him or her, with the object of private or public gain, benefit, or advantage, whether direct or indirect..." Therefore, based on the statutory provisions of Chapter 212, F.S., political subdivisions and municipalities are persons that exercise a taxable privilege when they sell anything of value. Florida law allows schools, churches, governmental agencies, and other not-for-profit organizations to make purchases without paying sales tax if the purchases are used in carrying on their nonprofit or exempt purpose.

However, sales made by these entities are generally taxable and subject to a 6% state sales tax rate, and if applicable, subject to discretionary sales surtax. The surtax is imposed by most counties in Florida to transactions subject to the state sales tax and applies only to the total sale of taxable items or services delivered into a county imposing the surtax. Charlotte County imposes a 1% discretionary sales surtax.

Charlotte County as a political subdivision of the state exercises a taxable privilege and is required to collect sales tax on taxable sales, including sales and leases of tangible personal property, leases of and licenses to use real property, and any of the sales taxable under Chapter 212, F.S. The County has been entrusted with the fiduciary duty to collect and remit the tax to the state.

## AUDIT OBJECTIVES

The purpose of the follow-up audit was to determine if the proposed corrective actions documented in response to the four (4) comments and/or recommendations reported, within the Charlotte County Revenues Taxable Transactions Audit Report No. 2017-007, were adequately and timely implemented and/or resolved.

## SCOPE AND METHODOLOGY

The follow-up audit included a review of the following items that were to be corrected:

- Having a formal policy and procedure in place to ensure proper classification and treatment of taxable and exempt transactions by the various County departments, as well as County personnel being aware of the sales and use tax implications in regard to their department's sources of revenue
- Sales Tax being collected on sales of recycled white goods and on leases of real property as required by Florida Statutes and Administrative Rules.
- Documentation being obtained from the purchaser and retained by the County as required by Florida Statutes and the Florida Administrative Code to establish the exempt nature of the sales made for resale as well as the sales made to exempt entities
- Preparing the County-wide monthly sales tax return in accordance with the Florida Department of Revenue guidelines, recording all taxable and exempt sales.

The scope of the follow-up audit included a review of comments, recommendations and responses documented within the Charlotte County Revenues Taxable Transactions Audit Report No. 2017-007

The methodology of this review included discussing findings, recommendations and responses reported.

## COMMENTS, RECOMMENDATIONS AND FOLLOW-UP AUDIT RESULTS

1. **Policies and procedures should be developed and implemented over County-wide revenue collections to ensure proper classification and correct treatment over those collections that are subject to sales and use tax.**

**We recommend** the County develop procedures and controls over county-wide revenue collections.

These procedures should include, but not be limited, to the following:

- a. A documented, uniform process to ensure proper classification and treatment of sales transactions.
- b. An immediate review of the County revenue stream to ensure accurate collection and remittance of sales tax in compliance with current tax law in Florida.
- c. Identifying a centralized contact or liaison knowledgeable in sales and use tax guidelines to advise departments and divisions on how to properly classify existent and new revenue items.

**Original Response:** "Fiscal Services will meet with the Comptroller's office to develop a procedure for County Departments that collect sales tax."

**Status of Corrective Action: OPEN**

**2. The Solid Waste Division of Public Works is not collecting sales tax and discretionary sales surtax on taxable transactions.**

**We recommend** the Solid Waste Division begin collecting and remitting sales tax and discretionary sales surtax to comply with Florida Statutes and Administrative Rules.

**We recommend** the County Attorney's Office review the Landfill lease agreements, in which the County is the lessor, and all related contracts for issues that might potentially be considered additional rent and, therefore, be subject to sales and use tax.

**Original Response:**

"Fiscal Services staff will meet with the Solid Waste Department to work on documenting collection of sales tax for their white goods sold."

"Fiscal Services will submit a legal request to the Attorney's office requesting the review the Landfill's lease agreements and other lease agreements that might be considered rent and taxable; and determine how to collect taxes on lease agreements."

**Status of Corrective Action: Open/Partially Completed**

**Auditor Comments:** The Solid Waste Division did begin collecting and remitting sales tax. Fiscal never submitted a legal request to the Attorney's Office to have them review lease agreements.

**3. Documentation required by Florida Statutes and Florida Administrative Code to establish the exempt nature of County "sales made for resale" and County "sales made to exempt entities" is not being obtained from the purchaser.**

**We recommend:**

**a) Sales made for resale:** The County establish and implement procedures to comply with Rule 12A-1.039 of the Florida Administrative Code to ensure that proper documentation is obtained before "exempting" a sale transaction. In addition, a file should be maintained by each department with copies of Annual Resale Certificates (Form DR-13) to verify the exempt nature of the sales.

**b) Sales made to exempt entities:** The County establish and implement procedures to comply with Rule 12A-1.038 of the Florida Administrative Code to ensure that proper documentation is obtained before "exempting" a sale transaction. In addition, to verify the exempt nature of sales, a file should be maintained by each department and division with copies of Consumer's Certificate of Exemption (Form DR-214) and proof that payment was made with the purchasing entity's funds.

**Original Response:**

**a) i.** "We contacted Public Works to ensure their goods sold were sales for resale. We did receive the resale certificate for vendor Garden Street Scrap Metal for 2017; waiting on 2018, company has not

received it as of today.” ii. “Fiscal Services will contact Solid Waste to determine what goods are being sold to Trademark, their scrap metal vendor. Additionally, we will obtain their current resale certificate.”  
**b)** “Fiscal will research/determine if any sales are made to exempt entities and obtain a Consumer’s Certificate of Exemption for documentation and verify it using the Dept. of Revenue’s online Certificate Verification System.”

**Status of Corrective Action:**

- a) OPEN/PARTIALLY COMPLETED**
- b) OPEN**

**Auditor Comments:**

- a)** Fiscal is receiving certificates, but they are not current.
- b)** In the original audit, it was determined that several County Departments are renting out building space to state government and federal government agencies and to several agencies that appear to be exempt under IRC code Section 501(c)(3). The Human Services Department also rents garden plots to individuals and entities at the County Community Garden at the property they occupy. Without a Certificate of Exemption being confirmed and placed in a centralized file prior to the transaction, they should be charged sales and use tax.

**4. The County-wide monthly sales tax return cannot be prepared in accordance with Florida Department of Revenue guidelines since taxable and exempt sales are not reported by the County departments.**

**We recommend** the County track in detail all sales including those sales exempted from sales tax to allow for the correct preparation of the County’s sales tax return.

**Original Response:** “Fiscal staff will meet to discuss a process on how to monitor all sales.”

**Status of Corrective Action: OPEN**

**ACKNOWLEDGEMENT**

We would like to thank Fiscal Services, the Comptroller’s Office and the County Attorney’s Office for their assistance in the completion of this follow-up audit.

Follow-up Audit supervised by:  
Dan Revallo  
Internal Audit Director  
Charlotte County Clerk of Court and Comptroller





## MEMORANDUM

Date: June 27, 2019  
To: Dan Revallo, Internal Audit Director  
From: Gordon Burger, Director of Budget and Administrative Services  
Subject: Responses to Internal Audit - Charlotte County Revenues Taxable Transactions

- 1. Policies and procedures should be developed and implemented over County-wide revenue collections to ensure proper classification and correct treatment over those collections that are subject to sales and use tax.**

**We recommend the County develop procedures and controls over county-wide revenue collections. These procedures should include, but not be limited, to the following:**

- a. A documented, uniform process to ensure proper classification and treatment of sales transactions.

**Response:** Fiscal Services is in the process of developing written procedures for Sales Tax Collection to be utilized County-wide.

- b. An immediate review of the County revenue stream to ensure accurate collection and remittance of sales tax in compliance with current tax law in Florida.

**Response:** Fiscal Services is working with the Comptroller's Office and BCC Legal Department to ensure County-wide procedures for Sales Tax Collection identifies the necessary steps to ensure accurate collection and remittance of sales tax in compliance with current tax law in Florida.

- c. Identifying a centralized contact or liaison knowledgeable in sales and use tax guidelines to advise departments and divisions on how to properly classify existent and new revenue items.

**Response:** A centralized contact person has been appointed in the Fiscal Services Division. This information will be disbursed to departments with the County-wide Sales Tax Collection Procedures.



**2. The Solid Waste Division of Public Works is not collecting sales tax and discretionary sales surtax on taxable transactions.**

**We recommend the Solid Waste Division begin collecting and remitting sales tax and discretionary sales surtax to comply with Florida Statutes and Administrative Rules.**

**Response:** Solid Waste is collecting and remitting sales tax and discretionary sales surtax to comply with Florida Statutes and Administrative Rules.

**We recommend the County Attorney's Office review the Landfill lease agreements, in which the County is the lessor, and all related contracts for issues that might potentially be considered additional rent and, therefore, be subject to sales and use tax.**

**Auditor Comments:** The Solid Waste Division did begin collecting and remitting sales tax. Fiscal never submitted a legal request to the Attorney's Office to have them review lease agreements.

**Response:** A Legal Service Request has been sent to the BCC Legal Department to review county lease agreements and determine which entities are responsible to remit sales tax. Pooja Patal, from the County Attorney's Office, was assigned to the file: CC Lease Agreements Collectable Taxes (2019-0481).

**3. Documentation required by Florida Statutes and Florida Administrative Code to establish the exempt nature of County "sales made for resale" and County "sales made to exempt entities" is not being obtained from the purchaser.**

**We recommend:**

a) Sales made for resale: The County establish and implement procedures to comply with Rule 12A-1.039 of the Florida Administrative Code to ensure that proper documentation is obtained before "exempting" a sale transaction. In addition, a file should be maintained by each department with copies of Annual Resale Certificates (Form DR-13) to verify the exempt nature of the sales.

b) Sales made to exempt entities: The County establish and implement procedures to comply with Rule 12A-1.038 of the Florida Administrative Code to ensure that proper documentation is obtained before "exempting" a sale transaction. In addition, to verify the exempt nature of sales, a file should be maintained by each department and division with copies of Consumer's Certificate of Exemption (Form DR-214) and proof that payment was made with the purchasing entity's funds.



**Response:** Fiscal Services is in the process of developing written procedures for Sales Tax Collection which will include proper actions for obtaining and maintaining Annual Resale Certificates and Consumer's Certificates of Exemption.

**4. The County-wide monthly sales tax return cannot be prepared in accordance with Florida Department of Revenue guidelines since taxable and exempt sales are not reported by the County departments.**

**We recommend** the County track in detail all sales including those sales exempted from sales tax to allow for the correct preparation of the County's sales tax return.

**Response:** Fiscal Services is in the process of developing written procedures for Sales Tax Collection which will include the tracking of County-wide sales to ensure proper reporting on the County-wide monthly sales tax return in accordance with Florida Department of Revenue guidelines.

